

# THE LEGAL RESPONSIBILITY OF THE REAL ESTATE BOUNDARY STABILIZER

ASMAA SAADOUN FADEL

College of Law and Political Science, Iraqi University, Iraq.

**Abstract:** *The process of fixing the boundaries of real estate ownership is one of the issues that is of particular importance, especially with the expansion of real estate buying and selling operations and the expansion of the construction process and related matters, the most important of which is the knowledge of the boundaries of this property and fixing them in order to preserve rights and to avoid infringement on the rights of neighbors. In terms of the need for him to know the science between identifying and confirming real estate ownership accurately and verifying the documents necessary for the process of establishing ownership, there is no doubt that any error in this work raises the responsibility of the real estate property installer.*

*Civil liability arises when a person exceeds the limits authorized to him under the rules stipulated in the state's income, whether in legislative or contractual form. The nature of the responsibility of the registrant of real estate ownership seems to be a tort civil liability, due to the absence of a contractual link between the registrant of ownership and the owner of the real estate subject to fixing the boundaries, as fixing the boundaries of the property is only done based on a site survey to measure its dimensions and diameters, and this on-site viewing and inspection, which is called detection, is only done By the technical employee at the Real Estate Registration Department.*

**Key words:** *responsibility, ownership and installer.*

## Table of Contents

1. INTRODUCTION
2. CONCLUSION

### 1. INTRODUCTION

Real estate ownership is one of the important rights granted by the state to individuals, as it is one of the rights included in human rights conventions, including the International Declaration of Human Rights in 1948, and later enshrined in various constitutions, and then internal legislation was prepared for each country according to its legal system This is due to the importance of this right in material, moral and social stability.

Most of the constitutions of countries have focused on codifying the right to real estate property, and one of these constitutions is the Iraqi constitution of 2005, as Article (23) of it stipulates that: First - Private property is inviolable and the owner has the right to benefit from it, exploit it and dispose of it within the limits of the law. Second: It is not permissible to expropriate property except for the purposes of public benefit in exchange for fair compensation, and this shall be regulated by law. Third - A - An Iraqi has the right to own property anywhere in Iraq, and no one else is allowed to own immovables except as exempted by law. B- It is prohibited to own property for the purposes of demographic change. And if individual property is originally the fruit of individual activity, then it is logical to recognize this right for the individual, in the sense that the owner has the absolute right over his ownership, so he may use his property, exploit it, invest it, and dispose of it as he pleases, but within the limits of the public interest as well as the special legislations for it within The state, taking into account the achievement of others, the right of the owner over his property is an established and indisputable right, and it cannot be taken away from him except for the purposes of public benefit and in exchange for a specific financial compensation in accordance with the law. As Article (27) states: "First: Public funds are inviolable. Second: The provisions related to the preservation and management of state property, the conditions for disposing of them(1), and the limits within which it is not permissible to give up any of these funds shall be regulated by law."



There is no doubt that the right of real estate property gives the owner the right to use, dispose and exploit, in what is specified and proven for him of real estate ownership. Therefore, Iraqi law has taken care of the need to establish and register ownership<sup>(2)</sup> so that each owner can know the boundaries of his property, especially since real estate is always adjacent to each other,

(1 ) Consider this: the Iraqi constitution of 2005.

( 2) Consider this: Iraqi Civil Law No. (40) of 1951

Which in turn may lead to special problems regarding which the responsibility of the real estate property registrar arises due to its important role in preserving property rights.

First: The importance of the research topic:

The importance of this research lies in the importance of the real estate whose ownership has been established on a specific and clear situation without error or infringement of the rights of neighbors, because real estate due to its nature, stability and adhesion to each other do not separate from others as is the case in movable objects, which in turn raises disputes between owners That is why the Iraqi Civil Code, according to Article (1060), permitted each owner to force his neighbor to set boundaries for their contiguous properties, and here comes the role of the property ownership recorder who may be responsible for this task, not to mention any error in submitting it that raises his responsibility, which involves The importance of this research. Second: Research Problem:

The research problem lies in the disputes that may arise between real estate owners regarding the limits of their ownership, and the infringement of these limits, which in turn raises conflict between real estate owners and those who establish real estate ownership, and this raises the question about; What is the legal responsibility of the real estate border installer?..which raises several sub-questions centered on:

What are the duties of the real estate boundary installer?

What is his responsibility when raising a dispute regarding real estate borders to be owned?

How are property boundaries fixed?

What is the legal nature of the work of the real estate property registrar if he made a mistake in fixing the real estate boundaries?

What is the body that is obligated to compensate the property owner for the damages he suffers as a result of this error when fixing the boundaries?

What is the ruling for the owner of the property to build on the neighboring property that is owned by others because of the mistake of the real estate owner in fixing the boundaries, which leads to encroaching on his neighbor's property?

Third: Research Methodology:

In this research, I relied on the inductive analytical approach, by analyzing the legal texts related to legal liability and explaining the nature of the responsibility of the real estate property stabilizer. The researcher also tried, through this analysis, to highlight the tasks of the property stabilizer and its role in establishing its limits, and the aim of providing this service with extrapolation of the most important results. and the recommendations reached through this research .

Fourth: Research plan:

The first topic: the general framework for fixing the limits of real estate ownership

The first requirement: what is the process of fixing the boundaries of real estate ownership

The second requirement: the aim of fixing the limits of real estate ownership and the role of the real estate ownership stabilizer

The second topic: the legal nature of the responsibility of the real estate owner

The first requirement: the responsibility of establishing the boundaries of real estate ownership

The second requirement: the implications of the responsibility of the civil real property registrant

The first topic

The general framework for fixing the limits of real estate ownership

According to the process of establishing real estate ownership, the physical strength and nature of lands are determined, if necessary, and there is no doubt that determining the physical strength, the nature of land occupation or its allocation, the pattern of its use for the buildings built on it or its exploitation and description according to each floor with regard to urban real estate, as well as that



would clearly explain The apparent owner and holders of real rights, as well as the method of exploitation, by defining public and private properties, so that the boundaries between properties according to their differences are embodied in a permanent way.

In order to find out the general framework for fixing the limits of real estate ownership in a more clear and detailed manner, we will examine this in the following two requirements as follows:

The first requirement: what is the process of fixing the boundaries of real estate ownership

The second requirement: the nature of the process of establishing real estate ownership

The first requirement

What is the process of fixing the boundaries of real estate ownership?

Establishing real estate boundaries is considered a purely technical process, through which the boundaries of the property are fixed by applying its map to it locally, in terms of its geometric shape and dimensions (1 ) and that fixing the boundaries is within the competence of the Real Estate Registration Department, and this is what the Iraqi Court of Cassation ruled in its decision No. 1224 issued in 9/26/2006 stating that: "The plaintiff's request in the lawsuit petition to fix the boundaries of the plot of land belonging to him and limiting the lawsuit to this request necessitates the dismissal of the lawsuit, as this was not within its competence, but rather within the competence of the real estate registration departments" (2).

In order to clarify what is the real estate ownership verification process, we will discuss the nature of ownership verification on the one hand, as well as its objective on the other hand, with an indication of the role of the real estate stabilizer, as follows in the following two requirements:

First branch

The nature of the process of establishing real estate ownership

The boundaries of the property are fixed by submitting a written request to the Real Estate Registration Department, or his legal representative, to the Real Estate Registration Department. After collecting the fee, the request is referred to the Technical Division, where the head of the Technical Division registers the application in a special record and refers it to the technical employee, after which the installer

---

) Mustafa Majeed, Explanation of the Real Estate Registration Law, Part 1, Edition 2, The Legal Library, Baghdad, 2008, p. 616.

) Alaa Sabri Al-Tamimi, The Civil Collection in the Judiciary of the Federal Court of Cassation, Sabah Library, Baghdad, 2009, p. 123. See also: Iraqi Court of Cassation Decision No. (1224) issued on: 9/26/2006.

The real estate property owner should be informed of the real estate owner or his legal representative of the date of the disclosure for the purpose of fixing the limits, and that the detection body in this case consists of the real estate property owner and the real estate owner or his representative (1).

As the purpose of the presence of the real estate property registrant is to apply the map and borders and check the dimensions on site, so the presence of a fundamentalist employee in the list is not justified as long as the latter is unable to do any work that helps facilitate the task of fixing the boundaries. Surveyor, the real estate registration director is obligated to ensure the participation of one of the real estate property certifiers from his department or other observations affiliated with him in the statements related to those observations, as in all cases it is not permissible to dispense with the real estate ownership certifier in the statement (2).

The owner of the real estate whose borders are required to be established is tasked with preparing the iron or wooden stakes and bringing the means of transport that the person for whose benefit the inspection is being conducted must prepare, and a worker at his own expense without interference by the employees of the Real Estate Registration Department.

The real estate property registrar applies the boundaries contained in the real estate registry and its map at its site to ensure that the boundaries and dimensions marked on the map are applied locally and that there is no encroachment or encroachment on and from the property subject to the



establishment of the boundaries. From the top of a block to the site of the property and continuing to the end of the block from the other side To ensure that there is no encroachment or encroachment, the real estate property registrant then puts wooden or iron pegs in the heads and corners of the property, provided that the pegs are 30 cm long, 5 cm above the surface of the ground, and the property is surrounded by excavations (earth) 20 cm deep and 20 cm wide. The side of the corners of the property, and then the disclosure report should be organized and signed by the real estate property registrar and the person concerned or his representative, and the date of fixing the boundaries should be recorded in the disclosure report. The minutes must include the following information:

) Where Article (3/89) of the Iraqi Real Estate Registration Law No. 43 of 1971 states that “if the inspection is for the purpose of fixing the boundaries of the property according to its map, then this is done by the technical employee only, in the presence of the owner or the owner of the real right or his representative.”

) Mustafa Majeed, Explanation of the Real Estate Registration Law, previous source, 615.

A- The results he reached regarding the application of the boundaries mentioned in the register and the map to the real estate and the extent of their applicability to it.

B - The fixed descriptions of the real estate, such as the serial number, the plot, the district, the name of the locality, its gender, its inclusions, the implants, the crops, and the easement rights accruing to it or on it, as well as a statement of the transgressions that occurred from the real estate or on it and establishing their amount, and the name of the transgressor or the transgression against him and the reason for the transgression (1).

#### Section two

The tasks entrusted with fixing the boundaries of real estate ownership

It is considered one of the basic tasks required for drawing up a general land survey and numbering the surveyed real estate in the Land Registry. This also includes the preparation and editing of contracts and files related to the work of the land survey committees stipulated in the framework of the regulation to which the procedure for preparing the real estate land survey is subject and editing the general stabilization plans of lands with the attached documents and their control. Continuously with the preservation of the archives, as well as the application of processes to match the land survey with the real estate registry held by the real estate preservation departments, and the works that were accomplished by the real estate ownership registrant and the private topographical studies offices for the account of public administrations are also monitored, tasked with developing means of design and study using automated media to control technologies(2 ). One of the exceptional tasks in the field of general inventory is the organization of a data compiler that allows the formation of a general inventory of national property real estate, by descriptive and evaluative registration of all private and public properties belonging to the state, state and municipality, which are contained in all the establishments and structures to which they belong and which are allocated to public institutions and bodies, as well Preparing modern methods and systems to conduct and control the inventory regularly, concluding deals or agreements on its activity programs with national or foreign bodies, and producing statistical data according to an appropriate periodicity that reflects the contents of real property belonging to national property and its development (1).

) Mustafa Majeed, previous source, 617-618.

) Shama Sma'in, The Penal Legal System for Real Estate Guidance, Dar Houma, Algeria, 2003, pp. 112-113, 200.

It is considered one of the importance of the legal mechanisms established by the state and organized in its legislation as the main pillar in the control and stability of real estate ownership and the protection of rights. It is managed by a public official called the real estate installer (2). He is a public servant who performs his duties and has a subordination regulatory relationship with the state. He is charged with running a public body of an administrative nature



) Ibid., p. 114.

) Mona Tamouh, The legal framework of real estate preservation in Algerian legislation, master's thesis, Faculty of Law, University of Algiers, 2004, pp. 6-7.

The second requirement The aim of fixing the limits of ownership and the role of the real estate property fixer

In view of the accurate technical feature of the process of establishing real estate ownership, the real estate legislator decided to assign this task to specific people who would install this property accurately, but before addressing the statement of the role of the real estate property installer, we should state the goal of real estate ownership verification, as follows: In the following two branches: First branch

The goal is to establish the boundaries of real estate ownership

The importance of the real estate fixation of ownership is evident in the goals it achieves by partnering with the Land Registry in reaching real estate purification, as it is its main supporter. The most important of these goals can be summarized as follows:

First: Social Goals:

Real estate ownership has been given great importance due to it being one of the broadest rights in rem, through various legislations and laws that have worked to protect it by establishing legal mechanisms to control and regulate its affairs, including the real estate fixation technique, which lies in the direct impact on ownership by fixing and defining it. Determining its owner, and thus fixing works to ensure its stability and protection from various encroachments, so that members of the community achieve full knowledge of their property, and dealing and trading with them prevails with confidence and reassurance, which leads to reducing real estate disputes and facilitating their settlement (1)

(1 ) Imad Eddin Rahaima, Legal means to prove real estate ownership in Algeria, Ph.D. thesis, Faculty of Law and Political Science, Mouloud Mamari University, Algeria, 2014, p. 186.

Second: Economic Objectives:

Real estate ownership is considered one of the most important investments on which economic systems are based, and it seems that its regulation in a way that guarantees real estate credit and encourages investment in various fields can only be done by technical and legal means carried out by the real estate installer as a first stage, then the real estate registry as a stage, as it should be noted that the delay in completing Confirmation operations in most areas have made the dilemma of real estate, means of real estate ownership, and real estate rights a problem presented and cause many disputes to be brought before the judiciary, and ensuring the stability of ownership with bonds (1) related to it

It also encourages and facilitates banks to enter into borrowing operations and contribute to the free real estate market in order to achieve real estate credit. The urban renaissance is also achieved through real estate promotion projects to ensure the provision of housing and urban development through which economic conditions stabilize. As for the fiscal level, the real estate stabilization process plays a role The original tax, as the purpose of adopting the general land survey is to know the types of real estate properties, their area, as well as their nature, and to determine the identity of their owners in order to assess the real estate tax. And when the state bore the public stabilization process despite its exorbitant cost, which it cost, if not to say, it forced it to contract with the International Monetary Fund to cover the budget for this project by granting it a conditional financial loan. That is the imposition of a tax on every owner, based on that on the official document of the surveyed property, which is represented in the real estate book. Although Iraq is an oil country, it does not exaggerate real estate royalties, and the state's plan to impose real estate collection begins to be applied as soon as the process of total stabilization of the state's land is completed, and



accordingly The real estate installation process, if it is done in proper ways and specific legal means, will have dimensions that support the national economy (2).

(1) Zerbani Muhammad Mustafa, The Land Registry as a Mechanism for Purifying Real Estate Ownership, Master Thesis, Faculty of Law, Ben Aknoun, University of Algiers, 2011, pp. 16, 15.

(2 ) Leila Zerrougui, Real Estate Legalization, The National Office for Educational Works, Part One, First Edition, Algeria, 2000, pg. 22.

Third: Technical and legal objectives:

The real estate installation procedures of identifying and diagnosing properties and conducting plans regarding them is a legal technical procedure according to which the real estate registry is established according to the data specified in the documents, as it is a necessary process for proof as long as it is registered in the register. These documents are the basic foundation upon which the real estate portfolio relies in The registration process in the registry, and here the installation process has moved in its first stage from a technical process to an investigation of a legal dimension, which is the formation of the real estate registry (1).

This role and importance is not complete unless it is managed within the legal framework specified for it, and therefore it will inevitably facilitate the process of legalizing lands and real estate, and paves the way for the objective and homogeneous study of the various projects that take the land as a basis for it.

## Section two

### The role of the real estate agent

The role of the real estate ownership recorder as the basis through which the physical registration of real estate ownership is carried out lies in the fact that it accurately determines the real status of the property as well as its role in identifying and knowing real estate owners and real estate rights holders, and we will explain this as follows:

First: The role of the real estate ownership recorder in determining the real and actual status of the real estate:

The real estate ownership boundary fixer enchants and knows the natural scope of the real estate in terms of determining the physical strength and the nature of the lands if necessary, as it shows the patterns of agricultural crops in the agricultural real estate, while the urban real estate determines the nature of occupation and allocation of the buildings built above the ground and their placement according to each floor, and the description of the real estate It is not limited to mentioning, but its limits must be highlighted through

( 1) Naima Hajji, The General Survey and the Establishment of the Land Registry in Algeria, Dar Al-Huda, Algeria, 2009, pp. 27, 28.

He made it embodied in a permanent manner, either by means of stone landmarks, or by other signs, according to the instructions in charge of land surveying, by setting borders and defining the real estate ownership prover (1).

Second: The role of the fixer of the limits of real estate ownership in identifying and defining the owners of real estate rights:

The role of the real estate property registrar is that it identifies the apparent owners and holders of real estate rights, and this is only done by determining the full identity of the concerned persons with the request for supporting documents, whether they prove their possession of the real estate to be surveyed, regardless of the type of the property, whether it is agricultural, urban or buildable. After identifying the owners of real real estate rights, each property in the municipality subject to verification is given an account number consisting of five digits, and this number is considered as an identification card for each owner, so that all other information related to the various properties he possesses is obtained, numbered according to their arrangement within the ownership verification

section. Real estate, and this number is given according to the alphabetical order of the owners of the property, starting first with the public bodies and institutions present in the municipality's territory, so that the move is to give this number to the owner as natural persons, within the accounts table, and a land survey record for each owner, i.e. for each account number, is prepared, as it is mentioned It includes all parts of the property owned by the owner inside the building (2).

(1) Zerbani Mohamed Mustafa, *The Land Registry as a Mechanism for Purifying Real Estate Ownership*, Master Thesis, Faculty of Law, Ben Aknoun, University of Algiers, 2011, p. 17.

(2 ) Laila Zarrouqi, *Real Estate Regulations*, National Office for Educational Works, previous reference, p. 23.

The second topic

The legal nature of the responsibility of the real estate property limit installer

It should be noted that the nature of the legal responsibility of the real estate property installer differs according to the papers that he issues, which in turn vary according to the contracts concluded in their regard, mainly related to the transfer of real estate ownership and its consequences, i.e. real estate rights. The responsibility of the installer is to achieve a result.

Accordingly, when the real estate property registrar commits any mistake in relation to fixing the borders of the property, which leads to harm to the owner of the property, then his personal responsibility arises, but since the registrant is naturally an employee of the Real Estate Registration Department, and therefore he assumes the management of his duties in the name of the state and for its account This is where the responsibility of the state also arises.

For this reason, we have opted in this section to deal with the responsibility of each person who establishes real estate ownership personally, as well as a statement of the responsibility of the state, in the following two requirements as follows:

The first requirement: the responsibility of establishing the boundaries of real estate ownership The second requirement: the legal implications of the responsibility of the civil real property registrant

The first requirement

Responsibility of fixing the limits of real estate ownership

We mentioned above that civil liability arises when a person exceeds the limits conferred on him under the rules stipulated in the state's income, whether in legislative or contractual form (1). In this regard, the jurisprudential opinion settled on distinguishing between two types of civil liability, namely contractual liability and tort liability.

The contractual liability arises in the event of a breach of a contractual obligation, while the tort liability arises in the breach of a legal obligation that should not have been neglected or lax in compliance with it, and negligence in it leads to the realization of the tort liability for failure to exercise due care to prevent the occurrence of this damage.

First branch

The personal liability of the real estate boundary installer

Accordingly, the nature of the responsibility of the real estate property registrant appears to be a tort civil liability, due to the absence of a contractual link between the registrant and the owner of the real estate subject to the determination of the boundaries, as the establishment of the boundaries of the property is only done based on a site survey to measure its dimensions and diameters and this on-site viewing and inspection, which is called detection. It is only done by the technical employee at the Real Estate Registration In this regard, the dissolved Revolutionary Command Council Resolution No. 551 issued on May 14, 1983 stipulated that the responsibility of the real estate property registrant is a personal responsibility, stating that: "The real estate property registrar or the engineer in charge of fixing the boundaries of plots of land allotted or that are allotted by him shall be responsible for his mistake." In fixing these limits, he is obligated to compensate the material damages to the stakeholders as a result of the mentioned error, in addition to the disciplinary or disciplinary penalties imposed on him according to the laws in force.



(1 ) Dr. Abdul Latif Al-Husseini, *Civil Responsibility for Professional Mistakes*, General Book Company, Lebanon, 1987, p. 27.

( 2) Published in *Al-Waqa'i Al-Iraqiya Newspaper* No. 2914 on 30/5/1985.

The elements of the tort liability of the real estate claimant are personally based on the basic elements of liability, which are error, damage, and causation, and we will discuss them as follows:

First: the error:

There is no doubt that the real estate property boundaries fixer is subject to the Real Estate Registration Directorate according to an organizational relationship governed by the laws, regulations and instructions pertaining to his position and the tasks he is authorized to perform, as he is a public employee and affiliated to a public interest, which is the Real Estate Registration Directorate<sup>(1)</sup>

Likewise, the relationship between the real estate owner and the real estate property registrar appears to be an organizational relationship, despite what may make it possible for some to consider it a contractual relationship, since the real estate owner is the one who initiated a request to establish the limits of his real estate ownership and benefit from the services related to the public utility, but this cannot be done. In any way, it is conditioned as a contract, so the responsibility of the property installer for the damage incurred by the property owner for his mistake in establishing the boundaries of the property in the event of an increase or decrease in dimensions or the appearance of the piece in its incorrect location; It is a liability of a tortious nature because this cannot be achieved by virtue of an ag And since the obligation in tort is always considered an obligation to exercise sufficient care not to transgress the rights of others, so failure to avoid it with caution would constitute a mistake that in turn requires tort liability, and the general criterion for error in the obligation to exercise care is an objective criterion based on the familiar behavior of the average person (2 ); He is the ordinary person who represents the masses of people, so he is not super vigilant, so he rises to the peak, nor is he limited in intelligence, lethargic.

reement or contract between the owner of the property and the registrant of ownership.<sup>(3)</sup>

---

) Dr. Asaad Obaid Al-Jumaili, *The Error in Civil Medical Liability*, Dar AlThaqafa for Publishing and Distribution, Amman, 2009, p. 381; Dr.. Samir Danoun, *The Personal Error and the Attachment Error*, Modern Book Foundation, Lebanon, 2009, p. 171.

) Dr. Abdel Moneim Faraj Al-Sada, *Sources of Commitment*, Dar Al-Nahda AlArabiya, Beirut, 1974, p. 543.

) Dr. Abd al-Razzaq al-Sanhouri, *The Mediator in Explaining the New Civil Law*, Sources of Commitment, Part 1, Al-Halabi Human Rights Publications, Beirut, 2000, p. 884.

Finally, the owner of the real estate must prove with conclusive evidence what he claims to be wrong in real estate ownership by proving that the latter has breached that legal duty that is assumed initially not to cause harm to others or to violate general principles in the field of his real estate business.

Second: damage

By harm, it means the harm that befalls a person in a right or a legitimate interest for him, as there is no responsibility without harm, and there is no compensation except to the extent of the damage. 551 issued on May 14, 1983, where it says: "The real estate property registrar or the engineer in charge of fixing the boundaries of the plots of land allocated or that are divided by him shall be responsible for his error in fixing those boundaries, and he shall be obligated to compensate the material damages that befall the stakeholders as a result of the mentioned error." ...".

As for material damage, it is that damage that occurs in violation of something of material value, that is, affects the funds or the financial liability of the injured person, such as assaulting one of his financial rights.<sup>(1)</sup> It is also required for the damage to be realised, that is, the damage is certain to occur, whether it is instantaneous, i.e. actually occurred or in the future, if its existence is certain, and that its occurrence is delayed until a later time. As for the potential damage that did not occur or There is evidence that it will occur in the future, but it is not sufficient for the establishment of



civil liability (2 ), and the damage must also affect a right or a legitimate financial interest for the injured, i.\_

(1 ) Dr. Anwar Sultan, Sources of Obligation in the Jordanian Civil Law, 1st Edition, University of Jordan Publications, Amman, 1987, p. 240.

( 2) Hassan Hantoush Al-Hasnawi, Judicial compensation within the scope of contractual liability, a comparative study, Dar Al-Thaqafa for Publishing and Distribution, Jordan, 1999, pp. 112-113.

Accordingly, the damage must be personal, since in order for a person to claim compensation on the basis of civil liability, the damage must have been inflicted on the plaintiff personally, and thus the claim based on damage to another person is excluded (1).

Third: The causal relationship between the error of the real estate ownership recorder and the damage:

It is not enough for the real estate property installer to make a mistake while fixing the property boundaries and for the real estate owner to suffer damage in order to establish his civil liability. Rather, there should be a causal relationship between the error and the damage that befell others, otherwise one of the pillars of liability for the real estate property installer is denied. This means that the damage is directly related to the fault (2 ).

Article (207) of the Iraqi Civil Code stipulates that: “1- The court shall assess compensation in all cases to the extent of the harm suffered by the harmed person and the lost earnings, provided that this is a natural result of the illegal act.”

The burden of proving the causal relationship rests with the owner of the property whose ownership limits have been fixed, because the availability of the error element does not mean that the causation element is also available. Therefore, if it is proven that the damage(3) to the owner of the property occurred as a result of the fault of the affected person himself, then the real estate property registrant is not responsible for it.

The Iraqi Federal Court of Cassation also ruled that the responsibility of the real estate installer is a personal one based on his failure to carry out his duties by saying that: “The real estate property installer or the engineer assigned to establish the borders of the plots of land that are separated or that are separated bears responsibility for his mistake in establishing those borders and is obligated\_ ) Dr. Munther Al-Fadl, The General Theory of Obligations in Civil Law, 1st Edition, Al-Ruwad Printing Office, Baghdad, 1999, p. 339 and beyond.

) Dr. Mustafa Al-Awaji, Civil Law, Part 1, Bahsoun Foundation for Publishing and Distribution, Beirut, 1996, p. 125.

) Article (211) of the Iraqi Civil Code stipulates that: (If a person proves that the damage has arisen from a foreign cause in which he has no heavenly influence, a sudden accident, force majeure, the act of a third party, or the fault of the injured person, he is not obligated to guarantee, unless There is no text or agreement to the contrary).

By compensating the material damages that afflict those concerned as a result of the aforementioned error, pursuant to the decision of the (dissolved) Revolutionary Command Council No. 551 on 5/14/1983, and thus the responsibility of the Minister of Justice and Land Registration in this regard is negated.(1)

Section two The responsibility of the state for the mistake of establishing real estate ownership

We mentioned above that the liability of the civil real estate title installer is of a tortious nature, based on the dissolved Revolutionary Command Council Resolution No. 551 issued on 5/14/1983, which was referred to previously, but we believe that the nature of the responsibility of the real estate property installer falls within the framework of the responsibility of the subordinate for the actions of Followed by (2), i.e., the state’s responsibility for the errors that occur from its employees, because the real estate property registrant is an employee in the Real Estate Registration Department, as Article (1/219) of the Iraqi Civil Code stipulates that: “The government, municipalities and other institutions that perform a public service and all A person who exploits an industrial or commercial establishment is responsible for the damage caused by their employees if the damage results from an infringement committed by them while performing their services.

Accordingly, several conditions are required to hold the follower accountable for the mistake of the follower, which was of great importance to indicate the extent of their applicability to the responsibility of the state represented by the Real Estate Registration Department for the mistake of establishing real estate ownership resulting from fixing the borders of the property, and these conditions are:

) Iraqi Court of Cassation Decision No. (3089) issued on 3/13/2007.

) Dr. Ahmed Ibrahim Al-Khayari, Tort Responsibility for the Action of Others, Wael Publishing House, Amman, 2003, p. 238; Talal Ajaj, The Responsibility of the Follower for the Actions of the Follower, Modern Book Foundation, Lebanon, 2003, p. 25 and beyond.

First: the existence of a dependency relationship between the follower and the follower

Legal jurisprudence almost agrees on the elements of this subordination bond, which lie in: actual authority, oversight, guidance, and the element of working for the account of the superior, as it should be noted that some have focused on the element of oversight and guidance (1) and some of them have combined the elements of actual power, oversight and guidance into an element One, justifying this by saying that the only pillar of the subordination bond is the authority in supervision and guidance, and some of them focused on two elements, and he said that the strength of the subordination bond is the two elements of actual power, control and guidance (2).

In sum, it can be said that there is indeed a dependency relationship between the real estate property registrant and the director of the real estate registration department, because the latter has the authority to issue orders and instructions to the real estate property registrar and he also has the right to monitor and supervise him to ensure that his duties are carried out as required in accordance with what is issued. of orders and instructions (3).

Second: A mistake committed by the follower that harms others:

It is required for a relationship to exist between the subordinate and the subordinate so that the subordinate is responsible for the actions of his subordinate that there is a mistake that the subordinate has already committed (4) that makes him responsible with the availability of other elements of responsibility; That is, for the aggrieved party to prove that the follower's mistake has caused harm, and this means that the responsibility of the follower revolves with the responsibility of the follower, whether or not, because if the follower does not commit a mistake that requires legal accountability, then there is no responsibility on him, and the responsibility of the follower is also negated (5).

) Dr. Muhammad Kamel Morsi, Explanation of the New Civil Code, Sources of Obligation, Part 1, Cairo, 1955, p. 239.

) Dr. Suleiman Marks, Lectures on Civil Responsibility in Legalizing Arab Countries, Part Two, without a place to be printed, 1960, pg. 612.

) Dr. Abdel Moneim Faraj Al-Sada, previous source, p. 612.

) It is not a requirement for the subordinate to exercise his authority to supervise and direct himself, as it may be difficult or even impossible to do so. The state, which is a public legal person, exercises that authority through another employee who assumes this authority on its behalf and for its account. The minister monitors and directs the employees of his ministry, and the general manager undertakes this himself in relation to the employees of his department. Dr.. Adel Ahmed Al-Taie, The Civil Responsibility of the State for the Mistakes of Its Employees, 2nd Edition, Dar Al-Thaqafa for Publishing, Jordan, 1999, p. 42.

) Dr. Abd al-Razzaq al-Sanhouri, previous source, pg. 1023.

However, it is noted that the condition of the availability of the subordinate's fault does not require that the latter be held accountable before recourse to the subordinate, as the injured person can file a lawsuit against the subordinate directly without the subordinate (1) and in connection with the subject of our research, the responsibility of the Real Estate Registration Department for the real



estate ownership document does not arise unless the damage suffered The claimant for compensation - the owner of the real estate - has been committed by the real estate owner.

Third: The error occurred on the part of the follower while performing his job

Article (1/219) of the Iraqi Civil Code stipulates that: "...if the damage resulted from a transgression that occurred on their part while they were performing their services), so there are those who go from jurisprudence to say that it is a condition for the establishment of the responsibility of the follower that the subordinate commit the harmful act while he is in the process of executing it." His knowledge, and if he committed it at another time, the responsibility of the follower will not be fulfilled, as it is not fair and logical in nothing for the follower to be a guarantor of the behavior of the personal follower outside working hours (2).

While another direction of jurisprudence went that what is meant by the saying "during their service" is that this error occurs from the follower while performing his knowledge, that is, this trend takes the material link and not the temporal link (3).

With regard to the subject of our research, the error made by the real estate property installer in fixing the borders must be while performing his job duties entrusted to him and at the specified times (4).

---

) Izz al-Din al-Dinasuri and Abd al-Hamid al-Shawarbi, *Civil Responsibility in the Light of Jurisprudence and Judiciary*, 2nd Edition, Mansha'at al-Ma'arif, Alexandria, 1997, p. 286.

) Dr. Abd al-Majid al-Hakim, *The Brief Explanation of the New Civil Law, Part 1, Sources of Commitment*, 3rd Edition, Al-Ahlia Printing and Publishing Company, Baghdad, 1969, p. 578; Abd al-Jabbar al-Takarli, *The Responsibility of the Government and its Employees*, a research published in the *Journal of the Judiciary*, Issue (5), *Sunnah* (2), 1943, p. 524.

) Dr. Mahmoud Saad Al-Din Al-Sharif, *Sources of Commitment*, Al-Ani Press, Baghdad 1955, p. 428; Dr.. Ghazi Abd al-Rahman Naji, *The Responsibility of the Follower for the Acts of the Follower*, a research published in the *Justice Journal*, the third issue, the first year, 1975, p. 645.

) M. Amer Ashour Abdullah, *The Civil Surveyor's Responsibility for the Error in Fixing the Property Boundaries*, research presented at the Faculty of Law, University of Kirkuk, Volume (1), Issue (1), 2012, p. 49.

It should be noted that Article (88) of the Real Estate Registration Law clarified the time period specified for conducting the inspection, as it stipulated that: "The inspection of the real estate shall take place between sunrise and sunset during or outside official working hours and on official holidays..."

Based on the foregoing, and given the availability of elements of the link between the conditions for the responsibility of the subordinate for the actions of his subordinate stipulated in Article (219) of the Civil Code of Iraq, which states the responsibility of the prover of civil real estate ownership, therefore we believe that the decision of the dissolved Revolutionary Command Council - there is no justification for its existence, and that we suggest The Iraqi legislator must cancel this decision and subject the liability of the registrant of civil real estate ownership to the general rules stipulated in the civil law in terms of the liability of the subordinate for the actions of his subordinate.

The Iraqi Court of Cassation ruled in its decision No. 1311/M 1/981 on 3/6/1981, i.e. before the issuance of the dissolved Revolutionary Command Council Decision No. 551 issued on 5/14/1983, the responsibility of the real estate ownership recorder, as it stated in its decision that: " In addition to his job, the Director of General Real Estate Registration, jointly with the department's surveyor, is responsible for compensating the owner of the property who built according to the limits set by the real estate registration officer, and then an error appeared that led to the demolition of the building due to its encroachment on the neighboring land.(1)

Finally, it must be noted that the Iraqi legislator has stipulated in the second paragraph of Article (219) of the Iraqi Civil Code that: "The employer can get rid of the responsibility if he proves that he took the necessary care to prevent the damage from occurring, or that the damage was inevitable even This means that the Iraqi legislator has relied on the idea of the supposed mistake, assuming that the opposite can be proven, as a basis for the responsibility of the follower (2).



It should be noted that the follower can deny his responsibility if he proves that he took the necessary care to prevent the harm from occurring, or that the harm was inevitable even if he took this care, i. has occurred because of a foreigner,

) Ibrahim Al-Mushahi, Legal Principles in the Judiciary of the Court of Cassation in the Civil Division, AL-Amal Central Press, Baghdad, without a printing year, p. 626.

) Dr. Esmat Abdul Majeed Bakr, Sources of Commitment in Civil Law, The Legal Library, Baghdad, 2007, p. 338.

It seems that the assessment of this is up to the subject judge, who decides whether the damage is inevitably occurring despite the care exerted by the follower, or vice versa (1).

(1 ) Saman Fawzi Omar, The Civil Responsibility of theurnalist, Dar Wael for Publishing, Amman, Jordan, 2007, p. 145.

The second requirement The implications of the liability of the civil real estate property installer  
The statement of the legal effects resulting from the responsibility of the civil real estate property registrant requires a statement of the party obligated to pay compensation to the real estate owner for the damages resulting from the error in establishing the boundaries of his real estate, as well as the legal ruling for the real estate owner to build on the property of others as a result of the real estate registrant's mistake in establishing the boundaries of his real estate. This is what we will discuss in the following two branches:

First branch The entity obligated to pay compensation to the property owner

The authority entrusted with paying compensation to the owner of the damaged real estate for the damages incurred by him as a result of the error in establishing the boundaries of the real estate appears in accordance with the decision of the (dissolved) Revolutionary Command Council No. 551 issued on 5/14/1983, in which it was stated that: "The real estate property installer or the engineer shall bear The person assigned to fix the boundaries of the allotted lands, or which are allotted by him, is responsible for his mistake in fixing those boundaries, and he is obligated to compensate the material damages that befall the concerned parties as a result of the mentioned error..." It is clear from this decision that the real estate property registrar in charge of establishing the boundaries of a property is the one who is obligated to compensate the material damage that befalls the real estate owner as a result of his mistake in fixing the borders of this property, and that compensation is limited to material damages only, and this is what the Iraqi Court of Cassation also ruled in its decision saying This is because the plaintiff's lawsuit for compensation was instituted against the defendant as a surveyor in the Real Estate Registration Department, and he made a mistake in fixing the boundaries of the plot belonging to the plaintiff, which led to an encroachment by building on the adjacent plot.(1)

It should be noted that, based on the provisions of working on the responsibility of the subordinate for the actions of his subordinate stipulated in Article (219/1) of the Iraqi Civil Code, the aggrieved person has two persons who can refer to any of them, one of whom is the subordinate - who establishes real estate ownership - and he is the cause of the damage and his responsibility is based on

(1 ) a. Alaa Sabri Al-Tamimi, previous source, p. 124. See also: Iraqi Court of Cassation Decision No. 2463 issued on 10/28/2008

A mistake that must be proven, and the follower's other, which lies in the Real Estate Registration Department, and his responsibility is based on an assumed mistake that can be proven to the contrary. Also, the aggrieved party has the right to return to them together(1), so they are considered jointly responsible for the damage that he suffered as a result of the act of the follower (2).



This is what the Court of Cassation ruled before the issuance of the dissolved Revolutionary Command Council Decision No. 551 on 5/14/1983 that: “If the land registry employee made a mistake in fixing a piece so that he gave it to someone other than its owner, and this built on it, then the owner of the land obtained a judgment to extirp it and it was extirpated, then the damages that it was inflicted on the owner of the facilities as a result of this ouster, and it must be compensated by the employee and the director of the land registry in addition to their job on the basis of solidarity and solidarity on the basis that the land registry department failed to exert the necessary care required by Article 219 of the Civil Code regarding responsibility for the work of others.” (3)

So, if the aggrieved party returns to the real estate property registrant in his capacity as a follower and receives compensation from him, the matter stops at this point, but if he returns to the Real Estate Registration Department as a follower, and the latter pays the compensation, then he has the right to return to the follower with all the compensation he paid on his behalf to the injured person, based on Article (220) of the Iraqi Civil Code, which stipulates that: “The one responsible for the work of others has the right to refer to him for what he guarantees” (4)

) Hussein Amer and Abd al-Rahim Amer, Civil Responsibility, Tortious and Contractual, Dar Al-Maarif, Egypt, 1979, pg. 667.

) Dr. Ghazi Abd al-Rahman Naji, previous source, p. 663.

) Decision No. 930 / human rights / 63 issued on 10/10/1963 referred to by Ibrahim Al-Mashhi, previous source, p. 253.

) Corresponding to articles: (175) Egyptian Civil, (288/2) of the Jordanian Civil Code.

Section two Compensation for the property of others due to a mistake established by the real property owner in fixing the borders

The owner of the property may build on the property of others, i.e. encroaching on the property next to him, due to the mistake of the real estate property registrant in fixing the boundaries. The legal ruling in this case differs according to whether the builder is on the property of others in good faith or in bad faith, as the builder in this hypothesis it is in good faith because it is built on the basis of the statement of the real estate ownership prover because the determination of the borders - as we previously indicated - is not done except by the on-site detection of the property (1).

Therefore, the builder encroaching on his neighbor's property due to a mistake establishing real estate ownership is only building by claiming a legitimate reason. In this case, if the value of the building is more than the value of the land owned by others, then the builder owns the land at a similar price. The land is to own the building at its existing value, not at its value due to be plucked, and this is an application of the rule “less follows more”, but if the two values are equal, then the reins are in the hands of the owner of the land because it is the origin (2).

This is what was stipulated in Article (1120) of the Iraqi Civil Code, saying: “If a person creates a building, plants, or other facilities with materials of his own on land owned by others, claiming a legitimate reason, then if the value of the innovations is existing more than the value of the land, the innovator has the right to own the land for a price.” Likewise, if the value of the land is not less than the value of the innovations, the owner of the land has the right to own it at its current value. In the context of this, the Iraqi Court of Cassation ruled in its Decision No. 759 on

4/5/2008 that: “What is meant by claiming a legitimate reason is the existence of a reason for ownership in the apparent sense when building a building, such as the builder receiving the land as an inheritance, gift, will, or purchase from someone Then a receivable appears to prove that it is his property

) M. Amer Ashour Abdullah, The Civil Surveyor's Responsibility for the Error in Fixing the Property Boundaries, previous source, pp. 50-52.

) Dr. Ghani Hassoun Taha and Muhammad Taha Al-Bashir, In-kind Rights, Part 1, without a place to be printed, 1982, pp. 171-172.



It is required that the court's investigations focus on the plaintiff's building, believing that the land belongs to him, because there is an apparent reason for ownership that prompted him to build, and then it was proven that the land does not belong to him(1).

It also ruled that: "If a person creates a building on land owned by another and with materials from his own, then he is the one assigned to prove that the construction took place after the real estate registration department's surveyor installed the plot, and that this occurred as a result of the mistake of the real estate ownership installer. The process of establishing borders is an official act, and that the real estate property registrant, upon doing so, organizes a report in accordance with Articles (89 F3, 90 F1, 91 F2) of the Real Estate Registration Law" (2).

) Referred to by Alaa Sabri Al-Tamimi, previous source, pp. 93-94.

) Ibrahim Al-Mushahidi, previous source, pg. 215. Iraqi Court of Cassation Decision No. 281 / Appeal / 85-86 issued on 11/12/1986

## 2. CONCLUSION

From the foregoing, it seems to us that the process of establishing real estate ownership is the main pillar in establishing the real estate registry, as it is considered that technical and legal process that aims to establish the identity of the real estate by identifying and fixing the locations of the real estate, defining their full descriptions, specifying the rights accruing to them or to them, and identifying the persons owed to them or They have these rights.

It also seems to us the role of fixing the limits of real estate ownership, as he is considered the person authorized to determine the exact area of the land, and to know the natural scope of real estate, and in fact it may seem at first glance that the matter does not carry many problems, but the reality is that this issue may raise many disputes not Especially with regard to the boundaries of the real estate to be established, and the burden of greatest responsibility may fall on the real estate property installer, since he is the one entrusted with this The matter is considered as personal tort liability for the error that caused the damage that led to the dispute. We also found that the responsibility of the state may arise represented by the entity or the Real Estate Registration Directorate with which the employee has an organizational relationship, and here the responsibility of the subordinate arises by virtue of the employee's affiliation to this entity.

Accordingly, we came to some conclusions and recommendations, which we highlight as follows:

First: the results

Through what we discussed above, we have reached several results:

Showing the importance of the process of establishing real estate ownership, as property rights are preserved and infringement of neighboring rights is avoided.

The real estate employee affiliated with the Real Estate Registration Directorate, who is the real estate ownership certifier, defines the boundaries of the property in a complete and clear manner that denies ignorance.

Limits shall be fixed only through on-site inspection of the property.

The real estate property registrar, by virtue of his relationship with the Real Estate Registration Directorate, has an organizational relationship as a public employee working in a public entity.

When a dispute arises regarding the ownership of a real estate and fixing the limits of its ownership, the responsibility of the real estate property registrant arises in addition to the responsibility of the state.

It became clear to us that the responsibility of the real estate property installer is a personal default liability for the error in fixing the boundaries in the event that an increase or decrease in dimensions appears, or the piece appears in an incorrect location.

We also found out the responsibility of the real estate registration authority by virtue of the employee's subordination to it.



It became clear to us that the Iraqi Civil Code permitted each property owner to force his neighbor to set boundaries for their contiguous properties.

The real estate property registrar is obligated to compensate the material damage that befalls the owner of the property as a result of the error in fixing the boundaries of the property.

Second: Recommendations:

Based on the above results, we recommend the following:

The Iraqi legislator must surround the real estate property registrant with a kind of control and severe penalty in the event of an error resulting from negligence or negligence in work.

The Iraqi legislator should annul the dissolved Revolutionary Command Council Resolution No. 551 issued on 5/14/1983, which holds the real estate property registrant responsible for his mistake in fixing the boundaries of the plots of land allotted or that are allotted by him.

This responsibility should be subject to the general rules stipulated in Article (219) of the Iraqi Civil Code regarding the responsibility of the superior for the actions of the subordinate.


## LIST OF REFERENCES

### First: General Books

- [1] Ibrahim Al-Mushahi, Legal Principles in the Judiciary of the Court of Cassation in the Civil Division, Al-Amal Central Press, Baghdad, 2018.
- [2] d. Asaad Obaid Al-Jumaili, The Error in Civil Medical Liability, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2009.
- [3] d. Anwar Sultan, Sources of Obligation in the Jordanian Civil Law, 1st Edition, University of Jordan Publications, Amman, 1987.
- [4] d. Abd al-Razzaq al-Sanhouri, The Mediator in Explaining the New Civil Law, Sources of Obligation, Part 1, Al-Halabi Human Rights Publications, Beirut, 2000.
- [5] d. Abd al-Majid al-Hakim, The Brief Explanation of the New Civil Law, Part 1, Sources of Commitment, 3rd Edition, Al-Ahlia Printing and Publishing Company, Baghdad, 1969.
- [6] d. Abdel Moneim Faraj Al-Sada, Sources of Commitment, Dar Al-Nahda AlArabiya, Beirut, 1974.
- [7] d. Esmat Abdul Majeed Bakr, Sources of Obligation in Civil Law, The Legal Library, Baghdad, 2007.
- [8] d. Ghani Hassoun Taha and Muhammad Taha Al-Bashir, In-kind Rights, Part 1, without a place to be printed, 1982.
- [9] Dr. Muhammad Kamel Morsi, Explanation of the New Civil Code, Sources of Obligation, Part 1, Cairo, 1955.
- [10] Dr. Mahmoud Saad Al-Din Al-Sharif, Sources of Commitment, Al-Ani Press, Baghdad 1955.
- [11] Dr. Mustafa Al-Awaji, Civil Law, Part 1, Bahsoun Foundation for Publishing and Distribution, Beirut, 1996.
- [12] d. Munther Al-Fadl, The General Theory of Obligations in Civil Law, 1st Edition, Al-Rowad Printing Office, Baghdad, 1999.
- [13] Saman Fawzi Omar, The Civil Responsibility of the Journalist, Dar Wael for Publishing,
- [14] Izz al-Din al-Dinasuri. Abdel-Hamid Al-Shawarbi, Civil Responsibility in the Light of Jurisprudence and the Judiciary, 2nd Edition, Manshaat Al-Maarif, Alexandria, 1997.
- [15] Alaa Sabri Al-Tamimi, The Civil Collection in the Federal Court of Cassation, Sabah Library, Baghdad, 2009.

### Second: Specialized Books

- [16] Hassan Hantoush Al-Hasnawi, Judicial compensation within the scope of contractual liability, a comparative study, Dar Al-Thaqafa for Publishing and Distribution, Jordan, 1999.
- [17] Hussein Amer and Abd al-Rahim Amer, Civil Responsibility, Tortious and Contractual, Dar Al-Maarif, Egypt, 1979.
- [18] d. Samir Danoun, The Personal Error and the Cubicular Error, Modern Book Foundation, Lebanon, 2009.
- [19] d. Suleiman Morcos, Lectures on Civil Responsibility in the Legalization of Arab Countries, Part Two, without a place to be printed, 1960.
- [20] d. Abdul Latif Al-Husseini, Civil Responsibility for Professional Mistakes, General Book Company, Lebanon, 1987.
- [21] Abd al-Jabbar al-Takarli, The Responsibility of the Government and its Employees, a research published in the Judiciary Journal, Issue (5), Sunnah (2), 1943.
- [22] Zerbani Muhammad Mustafa, The Land Registry as a Mechanism for Purifying Real Estate Ownership, Master Thesis, Faculty of Law, Ben Aknoun, University of Algiers, 2011, pp. 16, 15.
- [23] Shama Sama'in, The Penal Legal System for Real Estate Guidance, Dar Houma, Algeria, 2003, pp. 112-113, 200.
- [24] Dr. Ahmed Ibrahim Al-Khayari, Tort Responsibility for the Action of Others, Wael Publishing House, Amman, 2003, p. 238.

- 
- [25] Talal Ajaj, *The Responsibility of the Follower for the Actions of the Follower*, Modern Book Foundation, Lebanon, 2003, p. 25 and beyond.
  - [26] Dr. Adel Ahmed Al-Taie, *The Civil Responsibility of the State for the Mistakes of Its Employees*, 2nd Edition, Dar Al-Thaqafa for Publishing, Jordan, 1999, p. 42.
  - [27] Leila Zerrougui, *Real Estate Legalization*, National Office for Educational Works, Part One, First Edition, Algeria, 2000, p. 22.
  - [28] Mustafa Majeed, *Explanation of the Real Estate Registration Law*, Part 1, Edition 2, The Legal Library, Baghdad, 2008, p. 616.
  - [29] Mona Tamouh, *The Legal System of Real Estate Conservation in Algerian Legislation*, Master Thesis, Faculty of Law, University of Algiers, 2004, pp. 6-7.
  - [30] Naima Hajji, *The General Survey and the Establishment of the Land Registry in Algeria*, Dar Al-Huda, Algeria, 2009, pp. 27, 28.

### **Third: Periodicals**

- [31] m. Amer Ashour Abdullah, *The Civil Surveyor's Responsibility for the Error in Fixing the Property Boundaries*, research presented at the Faculty of Law, University of Kirkuk, Volume (1), Issue (1), 2012.
- [32] d. Ghazi Abd al-Rahman Naji, *The Responsibility of the Follower for the Actions of the Follower*, a research published in the *Justice Journal*, the third issue, the first year, 1975.
- [33] Fourth: Messages:
- [34] Emad Eddin Rahima, *Legal means to prove real estate ownership in Algeria*, PhD thesis, Faculty of Law and Political Science, Mouloud Mamari University, Algeria, 2014, p. 186.
- [35] Fifth: Constitutions, laws, instructions and declarations:
- [36] The current Iraqi constitution of 2005.
- [37] The International Declaration of Human Rights in 1948
- [38] Iraqi Real Estate Registration Law No. 43 of 1971
- [39] *Artwork Guide*, prepared by the General Directorate of Real Estate Registration / Ministry of Justice, 1st Edition, Dar Al-Hurriya for Printing, Baghdad, 1978, pp. 9192.
- [40] Resolution of the dissolved Revolutionary Command Council No. 551 issued on May 14, 1983

### **Fourth: Decisions**

- [41] Decision of the Iraqi Court of Cassation No. (930) Human rights / 63 issued on 10/10/1963.
- [42] Iraqi Court of Cassation Decision No. (3089) issued on 3/13/2007.
- [43] Iraqi Court of Cassation Decision No. (1224) issued on: 9/26/2006. 4) Iraqi Court of Cassation Decision No. (1311) M1/981 on 3/6/1981
- [44] Iraqi Court of Cassation Decision No. (2463) issued on 10/28/2008
- [45] Iraqi Court of Cassation Decision No. (759) issued on 4/5/2008
- [46] Decision No. 281 / Appeal / 85-86 issued on November 12, 1986.