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Jurisprudential–Legal Analysis of the Law on Determining the Status of Lands and Buildings Lacking Official Title Deeds

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ABSTRACT

The aim of the present study is to provide a "jurisprudential and legal analysis of the Law on Determining the Status of Lands and Buildings Lacking Official Title Deeds." Immovable property holds a special place among the public, and with the rising prices of real estate, the increasing tendency of individuals to preserve ownership of such property has elevated the importance of land registration. Registration enables owners of lands and buildings to establish and secure their ownership, reduce conflicts and disputes among people by clarifying property boundaries, and determine taxes owed to the government. Accordingly, legislative developments in this regard led to the enactment of the Law on Determining the Status of Lands and Buildings Lacking Official Title Deeds in 2011. This study was conducted using a descriptive–analytical method based on library research, compiling information through note-taking from multiple sources, including books and articles. Informal (non-official) transactions involving immovable property have consistently been controversial and challenging within the country's legal system. One of the most frequent categories of cases brought before judicial authorities consists of property disputes and claims arising from informal transfers of real estate. Moreover, given the current societal conditions, the annulment of the validity of informal transactions has been among the concerns and demands of the Supreme Leader, as His Excellency has declared informal transactions of immovable property to be a major source of corruption and money laundering. The registration of property and the informal sale of real estate have led to increased disputes and widespread litigation among the public. To address this issue and organize qulnāmeh-based lands, the legislator enacted the Law on Determining the Status of Lands and Buildings Lacking Official Title Deeds. The enactment of the Registration Law in 1931 demonstrated the legislator's intention to regulate the ownership status of property and to initiate social transformation nationwide. Ultimately, in 2011, under the title Law on Determining the Status of Lands and Buildings Lacking Official Title Deeds, the conditions for issuing ownership documents were approved. With the enactment and implementation of Articles 147 and 148 (as amended) of the Registration Law and the Law on Determining the Status of Lands and Buildings Lacking Official Title Deeds—and the acceptance of applications for issuing ownership documents based on informal deeds—these documents were endowed with legal validity, recognized by registration offices across Iran, and serve as the basis for issuing official ownership certificates.

Keywords: *immovable property, ownership, deed, official deed, informal deed*

Introduction

With the emergence of collective human life—which itself entailed risks and harms for the individual, including the innate sense of ownership inherent to human nature—collective reasoning sought ways to reduce individual and social harms. This gave rise to the idea of legislation through the enactment of regulations in order to protect property rights. Consequently, throughout the history of social life, enabling the stabilization and establishment of individuals' property rights and the regulation and coordination of related transactions became an accepted necessity (1, 2).

In the trajectory of legislative developments concerning ownership in Iran, land registration was initially customary and optional, and individuals were not obligated to request the registration of immovable property. However, with the enactment of subsequent regulations—particularly the law passed in March 1932—the registration of lands became a mandatory and regulated process. Along this legislative path, administrative institutions such as official notary offices were formed to protect individual ownership rights. As stated in Article 1 of the Law on Official Notary Offices (1975): "The official deeds office is a unit affiliated with the Ministry of Justice, established to record and certify official documents pursuant to laws and related regulations…" and according to Article 22 of the Registration Law, the government recognizes as owner only the person whose property has been registered according to legal requirements (3, 4).

In line with the emphases of the Supreme Leader regarding informal transactions involving immovable property and the necessity of invalidating such transactions, the *Law on the Mandatory Official Registration of Immovable Property Transactions* was finally enacted by the Islamic Consultative Assembly on November 27, 2022. Following objections by the Guardian Council concerning certain articles and clauses, the disputed articles were referred to the Expediency Council for review. After the Supreme Leader again stressed the importance of clarifying the legal status of this law during a meeting with the senior judiciary officials in June 2023, the law was ultimately approved by the Expediency Council on May 15, 2024, ratified by the government on June 2, 2024, published in the Official Gazette on June 6, 2024, and, fifteen days later—on June 24, 2024—entered into force. The legislator outlined several objectives for enacting this law, which are explained below (5, 6).

1. One of the legislator's primary aims is to establish order and systematization in the transfer of immovable property. According to the purpose of the law, after a certain period, all transfers of immovable property—whether absolute ownership or long-term usufruct exceeding two years—must be executed officially. The legal guarantee for this requirement is provided under Article 1 of the law (7).
2. Another objective is the regulation and oversight of real estate agencies. Since such agencies often serve as the starting point of informal documents, obligations and duties have been assigned to real estate agents in Article 3 and its second note (8).
3. A third goal of the legislator is to facilitate and remove legal barriers to issuing title deeds for agricultural and orchard lands. According to the Law Preventing the Fragmentation of Agricultural and Orchard Lands, issuing title deeds was contingent upon meeting minimum area requirements. However, this obstacle has been eliminated through Note 9 of Article 10 of the new law, which permits issuing deeds for any land size (9).
4. Another legislative objective, from my perspective, is to create psychological security and trust among transacting parties by ensuring that documents are drafted in specialized legal institutions (official notary

offices), as required by Article 2. Additionally, the law facilitates access for individuals to draft legal contracts independently and electronically without visiting notary offices or real estate agencies, as stipulated in Note 2 of Article 3 (10).

5. Another significant objective is determining the status of prior transfers executed before the enactment of the law. Article 10 provides duties for individuals who have acquired immovable property through informal documentation and do not possess official ownership deeds. According to Note 4 of Article 1 of the law, any title deed issued after the law's enforcement date—June 24, 2024—is excluded from informal transfers, meaning all subsequent transactions must be official. Article 11 establishes sanctions for real estate agents who fail to comply with this provision (11, 12).

Given the above, one of the most important and challenging issues in Iran's contemporary legal system is the sale of lands and buildings lacking official title deeds. Many owners, for various reasons, are unable to transfer such property through official documentation, leading them to rely on informal deeds, even though they recognize the significance of holding official title. Despite this, they overlook the advantages of official transactions. After legislative intervention, however, owners of lands and buildings lacking official deeds have been provided the opportunity to acquire official title deeds for properties previously transferred informally. The legislator sought to resolve the problem by amending Articles 147 and 148 of the Registration Law, granting temporary enforceability to facilitate access to official deeds for those meeting the requirements of Article 1 of the *Law on Determining the Status of Lands and Buildings Lacking Official Title Deeds*. Based on the same approach, the law was enacted in 2011 (13, 14).

Notably, not all lands fall within the scope of the law. Public, governmental, national, natural resource, and *mawāt* (dead) lands are excluded. According to Article 1, the law applies to buildings constructed on lands with registrational history, provided that the occupants' basis of possession is lawful. If apartment units require separate deeds, they must be processed under the Apartment Ownership Law of 1964 and its amendments (15).

In every registration district, property ownership issuance for immovable property lacking title deeds depends on the decisions of dispute-resolution boards. These boards consist of a judge appointed by the head of the Judiciary, the head of the Agricultural Jihad Office or the Road and Urban Development Office (or their deputies), and the head of the Registration Office (or their deputy), accompanied by expert opinions. After conducting the necessary investigations, they issue a final decision (Article 1) (16).

Article 49 of the 2011 law also addresses cases where part or all of a building is constructed on *waqf* land. In such cases, the board, with the approval of the trustee and notification to the Endowments Office—and, where no explicit trustee exists, with the approval of the Endowments Office—evaluates all aspects and, after determining rent and endowment rights (within two months), issues a ruling (17).

Article 4 of the Executive Bylaw of the law, approved by the head of the Judiciary, specifies electronic procedures for applying for ownership documents. Applicants must submit an online form and mail certified copies of documents and maps to the board secretariat. Article 14 further stipulates that issuing a title deed requires confirmation that the announcement was validly published, that no objection has been received—or that objections are resolved—and that all associated fees are paid (18).

In this study, while examining several provisions of the law, a jurisprudential and legal analysis of the determinative mechanism for the registration status of lands and buildings lacking official deeds is provided. The central research question is: *Based on jurisprudential foundations and legal principles, how can the registration status of lands and buildings lacking official title deeds be defined?*

To answer this question, previous research—though not directly addressing the issue comprehensively—can be considered relevant. Among these works is “Analysis of Amended Articles 147 and 148 of the Registration Law and Their Executive Effects” by Ali Sabahi, published in the Notaries and Assistants Journal (2010), and “Explanation and Critique of Articles 147 and 148 of the Registration Law” by Hassan Pashazadeh and Hassan Abbaszadeh (2011). Regarding the *Law on Determining the Status of Lands and Buildings Lacking Official Title Deeds*, only one brief article by Seyyed Ahmad Bakhter was published in the *Law School Journal* (2011) under the title “Remarks Concerning the Law…” (11, 19).

Additionally, Qasemvand (2019) examined the law in *Lawyār Legal Research*, noting that the Executive Bylaw was issued on July 16 with the signature of the head of the Judiciary. Bahri (2020) emphasized that the purpose of the law is to create order and stability in documentation, especially ownership deeds. Likewise, Sadeghi (2023) stressed that the law recognizes as owner only the person whose property is registered according to legal procedures or has been lawfully transferred to them. Yet despite these efforts, no comprehensive and meticulous analysis of the law has been conducted—an endeavor the present research seeks to fulfill (5, 7).

Background and Theoretical Foundations of the Registration Status of Lands and Buildings Lacking Official Title Deeds

Before entering the main discussion concerning theories on the effects of registration, real actions and the annulment of official documents, the non-acceptance of real actions after the expiration of the registration-objection period, and the duties of the Registration Organization regarding the registration of lands and buildings under the *Law on the Registration Status of Lands and Buildings Lacking Official Title Deeds*, it must first be noted that ownership and its reality are founded on rational and customary considerations. This means that when something is in a person's possession (and belongs to him), rational persons attribute a connection between the possessor and the possessed, which becomes the basis of his authority over the property. In *Kitāb al-Bayʿ* it is stated: “Ownership is a rationally constructed concept, one of the implications of which is the power to alter and transform the property.” Imam Khomeini also writes that “ownership is an attributed relation between the person termed ‘owner’ and the thing termed ‘owned’,” which reflects the same jurisprudential view (20, 21).

In the terminology of law, ownership has been defined as a right which every owner possesses in order to benefit from his property and, based on that right, is able to exercise any form of disposal unless another person or authority has the legal power to prevent such use. Therefore, ownership is a permanent right that allows a person to exercise dominion over property (22). As a result, the genuineness of ownership is considered a rational construct (1). Emami also defines proprietary rights as rights individuals possess over both tangible and intangible property, among which ownership is the most complete proprietary right (23).

With regard to document registration, the term *registration* in its lexical sense conveys the meaning of establishing, fixing, and making permanent. Legal and administrative rules distinguish between types of registration. Some scholars classify *ordinary registration* as that which existed before mandatory (general) registration and in which the owner was not required to register the property. In *general registration*, property owners are obligated to register their property. Thus, registration requested voluntarily by owners may be considered *ordinary registration*, while registration initiated through official notices sent to owners constitutes *general registration* (23, 24).

Preparing a deed is the prelude to its registration. According to Iranian Civil Code Article 1284, a document is "any writing that can be invoked in claim or defense," and—based on Article 16 of the Notary Offices Bylaw—no document may be drafted or entered into the notarial register unless it complies with statutory requirements. Registration of deeds is carried out in official registers printed by the Registration Organization (25). In registration terminology, a *title deed* traditionally referred to a booklet with multiple thread-sealed pages in 12-, 16-, or 32-page formats. In common usage, this was known as the *mangūleh-dār* deed. In the current registration system, however, title deeds are issued as single-page electronic ownership documents (26).

The discussion now proceeds—after outlining certain theories related to land-sale contracts—to the legislative background of land and building registration. Considering the vital role of registration offices in legislative transformation and implementation, the necessity and effects of the *Law on the Registration Status of Lands and Buildings Lacking Official Title Deeds* will be examined.

Historical and Legislative Background of Property Registration

The earliest traces of property registration in Iran date back to the Achaemenid period. With the advent of Islam, extensive discussions regarding transactions, the manner of drafting instruments, qualifications of contract parties, documentation, and evidentiary rules were articulated in jurisprudential texts (27, 28).

After 1923, transactions were conducted before religious authorities who kept a *sharʿī deeds register*. After the establishment of the Constitutional Government, during the second legislative period in 1911, a law titled the *Deed Registration Law* was enacted in 139 articles. In 1923, the *Real Estate and Deed Registration Law* was passed in 126 articles. However, due to the voluntary nature of registration in these laws, amendments were made in 1926, 1927, 1928, 1931, 1967, and 1972. With the enactment of the *General Registration Law* in 1931, Article 1 mandated the establishment of a registration office in every judicial district (29).

In 1972, the General Directorate of Registration was transformed into the Organization for Registration of Deeds and Properties. According to Note 2 of the Act creating this transformation, the purpose was merely to restructure the organization, including the creation of regional registration branches and new managerial positions (30).

The 1931 law continued as the principal legal basis, though many of its provisions underwent amendments over the decades. After the expiration of the implementation period for Articles 147 and 148 of the Registration Law in 2004, a massive influx of *informally contracted* properties was brought before the courts. This led to the enactment of the 18-article *Law on Determining the Status of Properties Lacking Official Title Deeds* in December 2011, following approval by the Guardian Council and signature by the President.

Thus, the long-standing expectations of owners lacking official deeds—to obtain a statutory mechanism for formalizing their ownership—were fulfilled. At the time of preparing this dissertation, the electronic registration system for properties lacking title deeds (as defined under the law) has begun operation and is not subject to any time limitation (5, 31).

Contract of Sale of Land

The contract of sale (*ʿaqd al-bayʿ*) is composed of two terms: "contract" (*ʿaqd*) and "sale" (*bayʿ*). Linguistically, *ʿaqd* conveys the meanings of seeking refuge with someone, covenant, oath, opinion, and judgment, while *bayʿ* denotes a covenant and undertaking between the owner of the property and the buyer. In Arabic usage, tying a rope is expressed as ʿaqd al-ḥabl and binding an oath as ʿaqd al-yamīn, and the term is applied both to tangible acts such as tying a rope and to intangible legal constructs such as juridical contracts (32).

In jurisprudential terminology, sale has been defined as the transfer of the corpus (ʿayn) of property from one person to another in exchange for specified consideration with mutual consent, or as the performative act of vesting ownership of a corporeal object in return for property, through an offer and acceptance that indicate the transfer of ownership in exchange for a known price (17, 33).

The Iranian Civil Code defines sale as "the transfer of the corpus of property in exchange for a known consideration" (Article 338 of the Civil Code). Sale is thus a commutative and translative contract in which each of the seller and buyer enters with the intent of acquiring the price or gaining possession over the subject-matter of sale. The subject-matter (*mabīʿ*) must be a corporeal property; hence, the sale of a specific or generic ʿ*ayn* is valid. Some jurists maintain that the subject-matter must necessarily be corporeal, and therefore rights, benefits, and human labor cannot constitute the object of sale (21, 34).

The author of *Jawāhir* likewise limits sale to corporeal property and denies that mere rights can be the subject-matter of sale. Imam Khomeini, however, holds that the transfer of rights in exchange for consideration—or even in exchange for other rights—and the vesting of ownership by means of rights is, in common understanding, a form of sale, and on this basis, the transfer of a right of *taḥjīr* (pre-emption by improvement) in return for a price is deemed a sale by rational persons (20, 35). By contrast, some jurists regard the sale of pure rights—whether they serve as property, price, or subject-matter—as invalid (36).

In the Iranian Civil Code and the prevalent view in Imami jurisprudence, the primacy of internal (real) intention in sale is recognized, while the outward expression of intent is considered exceptional. Both the Civil Code and leading jurists draw a distinction between intention (*qaṣd*) and consent (*riḍā*), and on this basis the general rule in transactions is that they are consensual, and, except in limited circumstances, do not require special formalities (15, 37). Induction from statutory provisions confirms that contracts are concluded by mutual consent, and formal requirements are the exception rather than the rule (1).

In particular, nothing in the Civil Code suggests that the sale of immovable property is inherently formal or solemn. Even those jurists who argue for the formal nature of sales of immovables do not base their reasoning directly on the Civil Code (31). Article 48 of the 1931 Registration of Deeds and Properties Act provides that documents subject to compulsory registration which have not been registered will not be accepted by government offices or courts. Some interpret this to mean that non-acceptance indirectly deprives the transaction of legal effect, rendering a contract with no legal effect equivalent to a void contract, since in terms of consequences it is indistinguishable from nullity (23, 29).

Jurisprudential–Legal Nature of the Substantive Validity of Preliminary Sale Agreements (*Qūlnāmeh*)

The term *qūlnāmeh* (preliminary sale agreement or promise of sale) in Persian literally means a written promise or covenant, and in common usage refers to a written undertaking or arrangement between two parties (38). In legal terminology, a preliminary sale agreement is generally an informal writing that evidences agreement on the conclusion of a future contract concerning a specific subject, where the sanction for non-performance is the payment of a sum of money (30).

Ibn Athir has described a similar institution in which a person purchases a commodity and pays an amount in advance so that, if the transaction is concluded, that payment will be counted as part of the price; otherwise it will remain with the seller and the buyer will not have the right to reclaim it. Comparable descriptions are found in the works of Imam Malik and other jurists (10). From a jurisprudential perspective, *qūlnāmeh* has been described—drawing on *al-Muʿjam al-Wasīṭ*—as the portion of the price paid in advance which, if the transaction is completed, forms part of the full price and, if not, remains with the seller.

On the basis of these definitions, some scholars of Islamic law have characterized the preliminary sale agreement as analogous to a sale including a conditional option (*bayʿ maʿa khiyār al-sharṭ*): the parties grant the buyer an option right in return for paying a specified sum, which is in substance a binding commitment supported by a financial sanction. In this sense, the preliminary sale agreement is a binding undertaking with enforceable legal consequences (39).

From the perspective of evidentiary value, the ordinary document (*sanad ʿādī*) has a lower degree of credibility than the official document and lacks many of its advantages; it does not possess the same probative force as an official instrument. When a document is produced in litigation against the signatory, the latter may either admit its authenticity, deny it, or remain silent. According to Al-Sanhuri, if the signatory admits that the document was issued by him, or remains silent and does not explicitly deny it, the ordinary document becomes valid and is treated as equivalent to an official document; thereafter, the signatory cannot challenge its authenticity except by alleging forgery (40).

In such a case, contrary to the previous presumption, the burden of proof lies with the party who alleges the invalidity of the contents. For example, if an ordinary document records that a sale has taken place between the signatory and another person and that the price has been received by the seller, the party claiming the nullity of the document's contents must prove by evidence that the sale was fictitious or that the price was not actually received. Once authenticity is established, the facts contained in an ordinary document enjoy the same evidentiary value as those in an official document, unless and until the contrary is proven (40).

Accordingly, in relation to the preliminary sale agreement as an ordinary document, one key point emphasized by legal scholars is that such an agreement constitutes a binding undertaking. There is no real disagreement among civil-law writers regarding the enforceability of the preliminary sale agreement. The only dissenting view treats the *qūlnāmeh* as nothing more than a promise of sale and, therefore, not a contract, arguing that a mere promise of sale is not binding and is simply a non-enforceable moral undertaking (41).

This view, however, has not gained general acceptance. Some authors have directly responded by asserting that a preliminary sale agreement reflects a complete agreement in which all elements of a contract are present, whereas a mere "promise of sale" is only an agreement to conclude the main contract at a later date and is not independently binding (42).

It may thus be acknowledged that the preliminary sale agreement is a contract that, so long as it does not conflict with explicit legal provisions, is valid and binding. This is supported both by jurisprudential arguments—based on Qur'anic verses and the opinions of jurists—and by statutory reasoning that reflects the legislator's intention to confer enforceability on private agreements (43). Qur'anic verses such as "O you who believe, fulfill your contracts" (Qur'an 5:1) and "Fulfill the covenant of God when you have pledged, and do not break oaths after confirming them" (Qur'an 6:91) are among the scriptural bases affirming the obligation to honor contracts and covenants (44).

Some jurists have limited the evidential force of these verses and narrations to nominated contracts (*ʿuqūd musammā*), while others have extended them to all forms of contractual undertakings, including preliminary promises and unilateral commitments. For example, Shaykh Ansari tends to deny the applicability of the term "condition" (*sharṭ*) to purely initial undertakings, while other jurists interpret *sharṭ* more broadly as any binding commitment, whether or not it is embedded within a contract (21, 45-47).

On this broader view, the well-known prophetic tradition "The believers are bound by their conditions" (*al-mu'minūn ʿinda shurūṭihim*) covers both conditions stipulated within contracts and initial, stand-alone commitments. Some jurists, such as Kumpani Isfahani and Naraqi, explicitly consider the generality of the proofs to require the fulfillment of all types of conditions, even where no principal contract exists and the condition arises solely through an initial mutual undertaking (46, 47).

Ayatollah Khoei, in his commentary on *al-Makāsib*, also criticizes the view that a condition not incorporated in the text of a contract is ineffective, emphasizing that the realization of a condition does not depend on third-party awareness of its content; otherwise, many private contracts concluded in secrecy would be void merely due to lack of publicity (48).

In light of the generality of the prophetic tradition and similar evidences, the opinion that initial conditions are binding appears closer to the truth. Some contemporary jurists, such as Tabataba'i Yazdi, interpret *sharṭ* as any form of binding commitment and, therefore, consider initial conditions to fall within the scope of contractual obligations derived from the sources (45).

A number of contemporary legal scholars have argued that the Qur'anic term "contracts" (*al-ʿuqūd*) in the verse "O you who believe, fulfill your contracts" is a generic plural prefixed with the definite article, which in Arabic indicates generality and thus encompasses all contracts, not only those known at the time of the Prophet. Hence, limiting the verse to historically familiar contracts lacks a solid textual basis (49, 50).

Some Muslim jurists have also emphasized certain conditions and qualities that must be present in the scribe or drafter of a document for the document to be evidentially valid, thereby drawing closer to what is today considered the evidentiary status of official documents. For example, ʿAllāmah Hilli considers qualities such as legal majority, sanity, Islam, and justice necessary in the scribe (27).

Several contemporary jurists have gone further, stressing the necessity of establishing specialized offices for the registration of writings and documents. They argue that if adjudication is obligatory for preserving social order and preventing chaos, this cannot be achieved without preliminaries such as institutions or individuals responsible for registering documents; thus, the obligation of adjudication entails the obligation to establish registration offices as a necessary precondition (51, 52).

Some Islamic scholars consider signed documents to constitute written acknowledgements and, in terms of evidentiary strength, superior even to witness testimony, giving precedence to written acknowledgment over witness testimony in cases of conflict (52). In *Sharḥ al-Lumʿa*, which is a jurisprudential text, the subject of documents appears primarily in the context of recording and preserving acknowledgements.

If the claimant requests that the judge write the acknowledgement of the defendant, the judge records it and may have it attested by two just witnesses. The author of *Jawāhir* states that where no testimony or admission validates a written right, the judge cannot rely on it and will not treat it as probative (34). ʿAllāmah Hilli similarly holds in *Qawāʿid al-Aḥkām* that mere handwriting cannot take the place of the testimony of two just witnesses (27).

Imam Khomeini, in response to the question whether official state documents or ordinary writings bearing the signatures and seals of prominent scholars can serve as proof or substitute for testimony in adjudication, states that written documents do not constitute a legal proof in themselves unless they produce certainty in the judge (20).

In the opinions of some contemporary jurists, such as Ayatollah Khoei, written wills and similar documents, where the handwriting or signature of the testator is known and conveys his clear intention, must be acted upon accordingly (36).

Legal and Jurisprudential Foundations of Real Actions and Annulment of Official Title Deeds

According to the final part of Article 3 of the *Law on Determining the Registration Status of Lands and Buildings Lacking Official Title Deeds* (hereinafter referred to, for brevity, as the "Law on Determining the Status"), enacted in 2011, "the issuance of a new ownership title deed shall not prevent the aggrieved party from recourse to the court." Most courts interpret this recourse as the right to bring a real action (*in rem*) and accordingly accept claims for the annulment of official title deeds. However, it appears that the legislator's aim was to permit a personal claim for damages rather than the annulment of the deed. First, accepting the latter is contrary to the general rule that registration operations are right-creating and stabilizing in nature. Second, the term "aggrieved party" (*motazarrer*) linguistically and legally suggests a claim in personam (for loss) rather than a real claim. Third, in cases where the property has been transferred to a third party, the attachment of that third party's right to the property and the need to preserve the stability of transactions are inconsistent with a real action, especially given that, in addition to the evidentiary weakness of such claims in jurisprudential language (described as "the most difficult of states"), one may, in our contemporary context, uphold the presumption of the good faith possession of the purchaser and thus limit the temporal reach of prior rights. Fourth, accepting a broad interpretation of "constructive loss" (*talaf ḥukmī*), relying on the customary impossibility of recovery, likewise justifies a personal claim for damages. In light of these points, annulling an official title deed is inconsistent with the registration-based foundations of title issuance, the stability of transactions, and the rational social practice upon which the system is built (9).

In the 1972 amendments to the Registration Law and subsequent reforms, as well as under the 2011 Law on Determining the Status, one of the conditions for issuing an official title deed in favor of a holder of an ordinary document is the verification of proprietary possession. Where the possessor holding an ordinary deed applies for an official title deed, the matter is referred to the registration dispute-resolution board. After the board verifies the applicant's proprietary possession, the result is communicated to the Registration Office, which must publish a notice in accordance with legal formalities. If no objection is lodged, the title deed is issued under the applicable regulations. If an objection is raised, two situations are distinguished: (1) objections lodged within the prescribed time limit, and (2) objections lodged after the time limit. In the first case, if an objection is filed within two months from the publication of the notice, the objector is referred to the court, and registration proceedings are suspended until a final court judgment is produced. In the second case, the legislator has stated that "the issuance of a new ownership title deed shall not prevent the aggrieved party from recourse to the court." In this latter clause, the manner of recourse is not specified: is the claim a real action for annulment of the official deed, or a personal action for damages? Accepting the first interpretation would eliminate any practical difference between the two situations. It would be neither logical nor fair to place on the same footing someone who objected within the statutory period and a person who remained silent and only acted after the deadline. Moreover, accepting the first interpretation would undermine the evidentiary and stabilizing force of official title deeds, which are one of the key instruments for ensuring order and security in legal relations. After the reforms of the Registration Law (Articles 147 and 148) and the adoption of the 2011 Law on Determining the Status, the legislator again sought to support and reinforce official documents in Article 62 of the 2016 *Law on Permanent Provisions of the Sixth Development Plan*. Unfortunately, however, the phrase "except for documents which, based on the determination of the court, possess religious validity" was added to the article following the objection of the Guardian Council, thereby undermining the main purpose and practical effect of the original text.

Rational Grounds for Rejecting Real Actions After the Expiration of the Registration Objection Period

Regarding the extinction of the right to annul the deed after the expiry of the objection period—or, in other words, the non-acceptance of real actions once the objection period has lapsed—it should be noted that, under Article 22 of the Registration Law ("Once a property has been registered in the Real Estate Register in accordance with the law, the State shall recognize as owner only the person in whose name the property has been registered, or the person to whom the property has devolved by inheritance from the registered owner…"), registration of property in the Real Estate Register is among the strongest pieces of evidence of ownership. Pursuant to Article 24 of the Registration Law ("After the expiration of the period for objections, no claim shall be heard in respect of any right alleged to have been violated during the course of the registration proceedings, whether such claim is for compensation or of any other nature, whether civil or criminal…"), once the objection period in the preliminary registration process has expired, the legislator will not accept *any* claim, whether real (*in rem*) or personal (*in personam*), except in cases where the general registration process has been accompanied by a criminal act.

Article 114 of the same law further provides that, in the cases mentioned in Articles 105, 106, 107, 108, and 109 (except those in paragraph (b) of Article 108), the offender, in addition to the prescribed penalty for fraud, shall remain in detention until such time as he compensates, through acknowledgment of the right in the Registration Office or by other means, the loss directly caused to the private complainant by the registration application and issuance of the title deed, provided that the complainant has claimed such damages through a formal petition and obtained a judgment. It is noteworthy that even in these situations, the official title deed itself is not annulled—even if it is issued in the name of the offender. The injured party is only entitled to claim compensation based on the legal relationship between the parties. The legislator's objective, in establishing the registration system, has been to ensure that once a title deed is issued, the ownership and subsequent transfers are as stable as possible; to this end, registered ownership evidenced by an official title deed enjoys particularly strong protection.

Duties of the Registration Organization Regarding the Registration of Lands and Buildings

There is no doubt that registering property and stabilizing ownership prevents, or at least significantly reduces, many local and tribal disputes and conflicting transactions and helps bring such conflicts to an end, thereby contributing to judicial security in society. Article 1 of the *Law on Official Notary Offices* enacted in 1975 states: "The Official Deeds Office is a unit affiliated with the Ministry of Justice, established to draft and register official documents pursuant to relevant laws and regulations…" (29). Through the registration of deeds and properties, the document serves as a clear piece of evidence, free from many ambiguities, indicating the conclusion of a transaction or the existence of an obligation, or the attachment of a specific property to a particular person. Registration also opens the way for the necessary State interventions and appropriate regulatory activities, such as the imposition and enforcement of tax rules on transactions and obligations, and the adoption of suitable regulations for the optimal use and development of lands and properties (37).

Given that a title deed is treated as equivalent in rank and value to a court judgment, it follows that the registration officer must exercise the utmost care and diligence in issuing it so as to avoid any certain or probable defects. The registration officer cannot invoke the principles of innocence (*barā'ah*) or permissibility (*ibāḥah*), which are well-established principles in jurisprudence, as grounds for evading this responsibility (24). After completing the executive formalities, drafting and registering the deed of transfer, and notifying the notary offices that the previous title deed is invalid, the registration offices must, at the buyer's request, proceed with issuing the new ownership title deed (18).

Points of Distinction Between Official and Ordinary Documents

The Iranian Civil Code does not provide an explicit definition of an ordinary document. It merely states, in Article 1287, that "documents drawn up in the Registration Offices of Deeds and Properties or in Official Notary Offices, or before other official officers within the scope of their competence and in accordance with legal regulations shall be deemed official documents," and in Article 1289 adds that "all documents other than those mentioned in Article 1287 are ordinary documents." Thus, any document not drawn up by an official officer within the limits of his competence and in accordance with legal provisions is an ordinary document (23).

The primary presumption regarding official documents is *validity and enforceability*. By "validity" here we mean the degree of resistance of a document against challenges to its authenticity and correctness (3, 14). For ordinary documents, however, the presumption is different: they are, in principle, confronted with a presumption of non-validity in the face of any challenge. In other words, the differentiation between official and ordinary documents pertains to the evidentiary stage rather than the substantive existence of rights (4).

Another important advantage of official documents is their *enforceability without the need for a court judgment*, which exempts their holder from bringing an action in court; only those documents that the law expressly declares enforceable enjoy this status, including categories of documents specified in Articles 92 and 93 of the Registration Law. If a property is covered by an official title deed and a third party usurps it, the owner has no remedy other than recourse to the courts to obtain a judgment of eviction (*khalʿ yad*) that is enforceable. It should also be noted that enforceability is not exclusive to official documents: the legislator has likewise declared certain ordinary documents to be directly enforceable in specific cases (3).

Challenges in Amending the 1931 Registration of Deeds and Properties Act

The continuous growth of the population and the rising price of land have intensified the need for housing and land, both from the perspective of individuals and of the State. Governments, therefore, consistently take this issue into account in their legislative policies. To prevent abuses by opportunistic individuals, to reduce and resolve property disputes, and to avoid informal transactions and the forgery, falsification, doubt, and denial that are commonplace in such documents, it is necessary to accord special attention to the official registration of property.

The Necessity of Updating the 1931 Registration of Deeds and Properties Act

The *Registration of Deeds and Properties Act* of 1931, which still serves as the principal legal framework, originally consisted of 142 articles. Due to deficiencies identified over time, some of its provisions were gradually amended and others were added. Among these changes was the insertion, on January 8, 1973, of Articles 142 to 157 under the heading of "Additional Articles" to the Act.

Because such unlawful and extra-legal practices were widespread in society, the legislator in 1972 was compelled to adopt Articles 147 and 148 of the Registration Law and append them to the 1931 Act. Regarding the addition of Articles 147 and 148, it can be said that, although the possession and use of property have always been governed by specific rules and regulations in different eras, some individuals, in pursuit of their own interests, ignored the law and, without formal purchase and without observing official procedures, took possession of others' property merely on the basis of the owners' consent.

The State has always sought to issue official title deeds for all lands in the country and does not regard the existence of unregistered lands and properties as desirable. Nevertheless, because of legal obstacles, it has not always been possible to issue official deeds for certain lands and buildings under the possession and use of occupants. The legislator therefore sought a solution to regularize these possessions and issue official title deeds for such buildings and properties. One of the most important measures in this regard was the amendment of Articles 147 and 148 of the Registration Law in 1986 and 1991.

Since their adoption, Articles 147 and 148 have undergone many changes and developments, and in this way the amended provisions took shape. Under the amended Articles 147 and 148, registration offices, in specific circumstances, are permitted to depart from the general rule, to give legal effect to ordinary documents, and even—where certain conditions such as the applicant's possession are proven—to issue separate (partitioned) title deeds. Article 147, as amended, subjects ordinary documents that evidence a sale contract (*mubāyaʿeh-nāmeh*) and the agreement and consent of the parties, in situations where legal obstacles prevent the issuance of an ownership deed, to the jurisdiction of the board established under Articles 147 and 148.

Necessity of Enacting the 2011 Law on Registration of Lands and Buildings Lacking Official Title Deeds

With regard to legislative developments concerning the registration of lands and buildings lacking official title deeds, it should be noted that increased public awareness of the advantages and legal effects of official documents, together with new mechanisms adopted by the State in recent decades for the registration of immovable property, created the need for adoption of the *Law on Determining the Registration Status of Lands and Buildings Lacking Official Title Deeds* on December 11, 2011. The immovable properties envisaged in this law can be regarded as inherently immovable properties, a category limited to land and buildings. Land on which structures are erected is called the *land* (*ʿarṣeh*), and the buildings constructed on it are also immovable property (6).

Thus, Articles 147 and 148 were originally added to the Registration Law in order to address numerous problems, but the process of applying for title deeds under those provisions was terminated in December 2004. Subsequently, the *Law on Determining the Registration Status of Lands and Buildings Lacking Official Title Deeds* was enacted in 2011 and remains in force today (9).

Under this law, two categories of immovable property are contemplated: (1) buildings constructed on land with an existing registration record, where the basis of the occupants' possession is lawful; and (2) agricultural land, agricultural holdings, and orchards meeting the same conditions—namely, that the land has a registration history and that the occupants' possession is lawful. The question of why buildings are sometimes constructed on land yet obstacles exist to obtaining an official title deed for them returns to the same legal and procedural problems that led to the enactment of this and prior similar laws. Various regulations in registration, tax, municipal, and urban land laws, enacted over time, have imposed wide-ranging restrictions on owners, preventing transfers, subdivision, partition, or, more generally, the free exercise of ownership and will over their property.

The law establishes sanctions for non-compliance in the process of applying for a title deed after a file has been opened, as well as restrictions for experts and penalties for persons who respond improperly to official inquiries.

The consequences and harms stemming from failure to take advantage of this law include deprivation of the benefits of holding an official deed, disregard for public order, and violation of the State's rights. Municipalities, however, have no role in implementing this law, whether in issuing title deeds or in conducting the corresponding official transactions.

Regarding the registration procedure under the amended Articles 147 and 148 of the Registration Law, the applicant was required to submit a printed application form, along with documents evidencing purchase of the land—often in the form of an ordinary deed—within the statutory period to the registration office at the location of the property and receive a receipt. The receipt was issued in triplicate with a serial number. The clerk of the dispute-resolution board under Articles 147 and 148 was obliged, upon receiving the application, to complete the receipt, enter the applicant's name and signature, deliver one copy to the applicant, attach the second to the file, and keep the third in a secure place.

Despite the advantages of the *Law on Determining the Registration Status of Lands and Buildings Lacking Official Title Deeds*, certain gaps and needs remain that were not fully addressed in its enactment, such as the situation of lands and properties without any registration history; properties without buildings; lands without agricultural or orchard use; and properties whose registered owner is alive and accessible, or where the owner has died but the applicant has access to the heirs for an official transfer. These are excluded from the scope of the law. The failure to specify deadlines for the duties of the board's secretary, the handling and issuance of decisions by the boards, and the obligations of heads of registration offices; the imposition of costs beyond the financial capacity of applicants; the lack of public awareness and adequate information; the loss of ordinary documents of ownership or the impossibility of producing them; and similar factors all operate as influential variables in applications for, and issuance of, title deeds under this law (6).

Effects of Issuing Ownership Title Deeds for Lands and Buildings Lacking Official Title Deeds

Under Article 22 of the Registration Law, the State recognizes as owner only the person in whose name the property has been registered in accordance with legal regulations. Nonetheless, there exist properties that cannot be bought and sold by official deed, and this has created opportunities for certain individuals to exploit the situation. Given the importance of immovable property among the public, the constantly increasing prices of real estate, and the ever-growing tendency of people to protect such assets, the registration of property has become increasingly significant. Registration enables landowners to consolidate and secure their ownership, to define the boundaries of their property, and thereby to clarify the taxes due to the State. Registration of property also prevents disputes and conflicts among individuals.

Despite this, there are many cases where people, by failing to register their property and by entering into ordinary transactions for such assets, fuel these disputes; in some instances, opportunistic individuals, by engaging in conflicting transactions, infringe upon the rights of others. To solve this problem and regularize *preliminary-sale-based* lands, the legislator enacted the *Law on Determining the Registration Status of Lands and Buildings Lacking Official Title Deeds* so that applicants seeking official titles could obtain ownership deeds through this law (31).

The law sets out specific conditions for obtaining a title deed, such as the death of the registered owner or one of the heirs; lack of access to co-owners in common; lack of access to the registered owner or his being missing; and lack of access to one of the heirs. It also categorizes certain lands as exceptions (*mustathnāyāt*), for which individuals may not apply for registration (31).

In stating the effects of registration of property and official ownership deeds, it should be added that, in today's society, every legally relevant act produces consequences. These consequences may be positive or negative depending on the nature of the act. Just as the conclusion of a contract of sale between parties results in the transfer of ownership of the subject-matter from the seller to the buyer, the ownership deed—like other official documents—produces legal effects, effects that are specifically protected by the legislator. Such protection encourages individuals to seek official title deeds and, ultimately, to enjoy the benefits and avoid the disadvantages associated with lacking an ownership deed.

Reflections on the Law Requiring the Official Registration of Transactions Concerning Immovable Property

With the adoption of this law and upon reviewing its provisions, the following ambiguity and question arose for me: Has the expansion of formal documentation been undertaken with consideration for the development of other sectors of the country, or has this approach focused solely on formalizing ordinary documents while neglecting harmony with other structural components? A country may be compared to a living organism with multiple parts, the proper functioning of which depends on the coordinated operation of each of its organs. Harmony and uniformity among components ensure movement toward desired national goals, whereas friction and conflict among them hinder national development. This principle also applies to legislation. Any law that is enacted must be aligned with the growth and requirements of other sectors. Otherwise, a law may itself become a source of disorder.

In the *Law Requiring the Official Registration of Transactions Concerning Immovable Property*, there are several instances that appear to weaken other sectors. Two such examples are briefly summarized below.

First: Expansion of Official Documentation through Encouraging Construction Violations

One of the most common violations in the construction sector concerns the construction of additional floors or the erection of structures without permits. Such violations have irreparable consequences for urban planning, the observance of which is essential for the well-being and safety of citizens. Under Note 2 of Article 100 of the amended Municipal Act, if the offender refuses to pay the imposed fine, the Commission converts the fine into an order for demolition of the unlawful structure. If the initial ruling already requires demolition and the offender refuses to comply, the illegal structure will necessarily be demolished.

Surprisingly, however, Note 6 of Article 10 of the *Law Requiring Official Registration* implicitly repeals this enforcement mechanism. It provides that where the Article 100 and Article 19 Commissions of the Municipal Act have issued a ruling for the collection of a fine, or where non-payment of the fine has resulted in a demolition order, municipalities are nevertheless obliged to issue the *certificate of completion* (*pāyān-e kār*) so that title deeds may be issued. Although the completion certificate will indicate the construction violations, this approach effectively rewards offenders and encourages further illegal construction. Consequently, any expansion of registration under such circumstances undermines urban regulatory order.

Second: Expansion of Official Documentation Creating Risks for Agriculture and National Food Security

Because arable land is limited, the preservation and protection of agricultural land are of vital importance. Accordingly, in 2006, the legislator prohibited the subdivision and partition of agricultural land into parcels smaller than the legally established minimum (Article 2 of the Law Preventing the Fragmentation of Agricultural and Orchard Lands). Yet, surprisingly, under Note 9 of Article 10 of the *Law Requiring Official Registration*, the Registration

Organization is obliged to issue deeds for agricultural lands “of any size,” a provision that seriously undermines the very objective of the anti-fragmentation law.

Conclusion

Following the adoption of registration regulations governing transactions concerning immovable property, and considering that the drafters of these regulations sought to ensure that the sale of immovable property without an official deed would be legally ineffective, the issue of transactions concerning registered immovable property conducted without an official deed has become a subject of considerable debate. Under the prevailing practice, an official deed is accepted as proof of the occurrence of the transaction and of the buyer’s ownership. Accordingly, the notary is responsible for verifying the identity of the parties (Article 50 of the Registration Act), the legal capacity of the parties (Article 57 of the Registration Act), the certainty and specificity of the subject matter—even on the basis of the parties’ acknowledgment—and the absence of any violation of the law (Article 60 of the Registration Act).

Undoubtedly, the determination of registration authorities to end claims based on ordinary documents and to invalidate such documents is essential, foundational, and unavoidable. However, a systemic legislative approach requires that such needs be addressed with full consideration for other sectors. From a cost–benefit perspective, the *Law Requiring Official Registration* cannot be said to yield a consistently positive outcome, given its detrimental effects on other subsystems. Therefore, it is necessary to amend provisions that pursue unilateral and sector-specific objectives without aligning with broader national goals, harmonizing them with balanced and coordinated national development.

This paper, by examining the registration regulations and their practical implications, has clarified that the purpose of these regulations is to create legal order in financial and contractual relations, reduce ambiguity, eliminate sources of conflict, limit opportunities for disputes, and enable governmental oversight and decision-making for essential national planning. Registration of property also facilitates necessary governmental interventions, such as taxation of transactions and obligations, and supports improved and efficient land-use planning.

Among the purposes of requiring official registration of transactions concerning immovable property—beyond the objectives mentioned above—is the prevention of abuse by owners through contradictory transactions involving the same property and repeated receipt of payment from multiple parties. As discussed, the issuance of title deeds for buildings and lands transferred by ordinary documents or preliminary contracts (*qowl-nāmeh*) is central to the present study. In various sections, the essential factors and legal justifications for issuing title deeds for properties lacking official deeds have been examined. The key points are summarized briefly below.

The registration of property and the acquisition of an official title deed are fundamental issues in registration law, enacted to protect individuals’ assets and ensure order in their transactions. Article 22 of the Registration Act recognizes as owner only the person in whose name the property has been registered through legal procedures. Nonetheless, some individuals avoid the significant advantages of official transfer and instead engage in transactions via ordinary documents. To address this problem, the legislator enacted Articles 147 and 148 of the Registration Act and, more recently, the *Law on Determining the Registration Status of Lands and Buildings Lacking Official Title Deeds*, enabling individuals to register their immovable property.

A crucial point is that, according to these provisions (Articles 147 and 148 and the 2011 Act), the sale of immovable property via ordinary documents is recognized and such documents are considered valid in transferring ownership. Finally, to resolve existing challenges in the implementation of the *Law on Determining the Registration Status of Lands and Buildings Lacking Official Title Deeds*, registration systems must be equipped with reliable technological infrastructures to increase registration speed and reduce delays. Given the law's role in reducing disputes, claims, and facilitating taxation oversight, effective implementation should be accompanied by robust safeguards for national, public, state, and natural lands (exemptions), while ensuring full compliance with legal requirements for privately owned lands.

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