

**Legal analysis of proof of ownership lawsuit**Hossein Esmaili<sup>1</sup>**Abstract**

There is disagreement in jurisprudence about the validity of litigation or the demand for proof of ownership. Some courts accept such a lawsuit and others issue a non-hearing order. Despite some legal research and judicial efforts, the current issue is still relevant and a well-established scientific perspective has not been formed. In this article, while explaining the issue in a preliminary way, the opinions of the proponents and opponents of the validity of such a claim and the critique of each are briefly presented. Then, an example of a judicial procedure based on opposing the validity of the mentioned lawsuit is given and analyzed. In the end, For reasons such as attention to the existence of a legal dispute in ownership, referring to the decision of ownership in some laws and the non-contradiction of the proceedings of such a lawsuit with the jurisdiction of the state registration office and other reasons, a detailed summary of the author on the validity of the claim for proof of ownership is presented except in exceptional cases and as a result of the superiority of the opinions of those in favor of the validity of the said claim.

**Keywords:** Proving, Claim, Ownership, Hearing

---

1. PhD student, Department of Private Law, Faculty of Law and Political Science, University of Tehran, Tehran, Iran

**Feasibility of Presuming the Absolute Validity of Official Instruments  
Irrespective of the Source of Issuance of the Title Deeds**Sajad Janmohamadi<sup>1</sup>**Abstract**

One of the most significant economic assets—and a frequent source of disputes among customs—is real properties. Accordingly, advanced legal systems have developed special rules to regulate title deeds. In Iranian legal system, despite the passage of considerable time and the enactment of multiple laws—most recently reflected in the legislator’s will as embodied in the “Permanent Provisions of the Country’s Development Plans Act”—no objective and clearly defined standard has yet been provided concerning the legal validity of official deeds. Legal doctrine has explored various dimensions of this complex issue, and sometimes, drawing on comparative legal systems, have attempted to propose solutions. Jurisprudence, however, remains inconsistent and confused, failing in its essential mission to clarify ambiguities and prevent contradictory decisions.

This study, through a descriptive-analytical approach, seeks to answer whether identifying the absolute validity of official documents over private deeds requires reference to the origin of issuance of the title deed. Given the dispersion of the laws, the most logical solution is legislative reform. Nevertheless, until such reform is achieved, it is imperative to derive an objective and well-defined criterion from a principled interpretation of the existing legal framework—one that acknowledges the inherent legal superiority of official deeds. Such validity should only be subject to limitation in explicitly stated legal exceptions.

Contrary to the views held by certain legal scholars, the recognition of the validity of official documents is not contingent upon their origin. Official authorities must, regardless of the source of issuance, accord independent legal weight to title deeds. In cases of statutory ambiguity, legal interpretation must favor the presumption of validity for official instruments.

documents.

**Keywords :** Absolute Recognition, Official Instruments ,Judicial Authorities,Validity

---

1. PhD student, Department of Private Law, Faculty of Law and Political Science, University of Tehran, Tehran, Iran

## Analysis of Iranian Legal Gaps in Cadastre with emphasis on the Comprehensive Law of Cadastre

Shiva Mohammdi<sup>1</sup>, Saied Kheradmand<sup>2</sup>

### Abstract

In the old administrative registration system, the location of real estate was determined by addresses and the rights of many citizens were lost and some were unjustly occupied. The master plan of cadastre has been quite successful in most countries. In our country, this competence was entrusted to the State Organization for Registration Documents and Real estates, the administrative part of the judiciary, which, after several years, did not achieve complete success in measuring Real estates. This descriptive-analytical study seeks to investigate the nature and legal effects of cadastre in the Iranian administrative registration system and to identify the reasons for the failure of this legislative challenge in the Comprehensive Law of Cadastre . Despite the legal explicitness of the need to determine the boundaries of all real estates in the country, unfortunately, this action has not been realized so far. While in developed countries, all aspects of land management and registration are considered and they benefit from the benefits of multi-purpose cadastre implementation in all organizations and bodies. On the other hand, cadastral affairs in Iran are entrusted to the State Organization for Registration Documents and Real estates , which is an administrative institution under the jurisdiction of the judiciary. "Due to its quasi-governmental management structure, it has lacked efficiency in administrative and executive affairs. Therefore, it is necessary—drawing upon the successful experiences of other countries—to seek assistance from a competent and capable private sector."

**Keywords:** Cadastre Implications, Registration, Boundary Surveying, Land, Cadastre, Surveying

- 
1. PhD Student, Department of Private Law, Islamic Azad University, Kermanshah, Iran
  2. Assistant Professor, Department of Law and Political Science, Kermanshah Branch, Islamic Azad University, Kermanshah, Iran

**Research of Changing Usage and Fragmentation of Agricultural lands  
and Gardens Law with emphasis on Civilian and Criminal Sanctions**

Rahim Pilvar<sup>1</sup>, Maryam Rajabi<sup>2</sup>

**Abstract**

Changing the usage of agricultural lands which has been set out for about 60 years has been increased anxiously in recent decades and it is regarded as an essential barrier for sustainable development and food safety. Accordingly, the optimal utilization and protection of land—particularly agricultural land as a source of food supply and a guarantor of the continuity of human life—is one of the key responsibilities of governments and the people in every society.

The succinct conclusion of the research posits that the State, conditioned upon the public interest, possesses the authority to impose limitations on individuals' ownership rights concerning agricultural lands, and to render certain acts of disposition on such lands subject to obtaining legal authorizations from competent authorities. Disobedience to legal limitations will end in civil and criminal Sanctions. But predicted civil and criminal sanctions of changing usage of agricultural lands rules in our country have some defects, therefore these defects are useful for offenders.

**Keywords:** Agricultural lands and gardens ; Changing the usage; Fragmentation of agricultural lands; Public interest; Property restrictions.

- 
1. Assistant Professor, Department of Private Law, Farabi College, University of Tehran, Qom, Iran
  2. Master's degree, Department of Private Law, Farabi Faculty, University of Tehran, Qom, Iran

## The Opposition between Private and Notarial Document in Real Estate Transactions from the Point of View of the Statutory Laws

Seyed Mohsen Razavi Asl<sup>1</sup>

### Abstract

One of the significant issues in the field of real estate transactions is the conflict between notarial and private documents. This arises because a buyer holding a later notarial deed, relying on the registration system and having followed legal procedures, completes the transaction; while on the other hand, a buyer with an earlier private deed, based on the principle of freedom and the sovereignty of will, also completes a transaction and is able to substantiate their claim with Islamic evidentiary proof. Therefore, in this descriptive-analytical study based on existing sources, the opinion of the jurists of the Guardian Council's Jurisprudential Consultative Assembly regarding the validity of private deeds in real estate transactions in cases of conflict with notarial deeds, and the inconsistency of Articles 22, 46, 47, and 48 of the Registration Law with Sharia provisions have been examined. Despite the sharia arguments presented by the aforementioned Council, considering harmful outcomes, the possibility of contradiction between private and notarial deeds, and the necessity of preserving and enhancing judicial order and security in society, the legislator's effort to enact the "Parliamentary bill for Enhancing the Validity of Notarial Deeds," based on an approach aimed at maintaining and promoting social and economic order and the theory of the entitlement of notarial deeds and the doctrine of public confidence, is justifiable.

**Keywords:** Conflict of deeds, Notarial documents, Private deeds, Guardian council, Land and deeds registration

---

1. PH.D. of Jurisprudence and Fundamentals of Islamic Law and Lecturer of Registration Law, Toloo Mehr Higher Education Institute, Qom, Iran

## **A Legal Analysis of the Consequences of Non-Registration of Real Estate Transactions in the Iranian Legal System**

Maryam Mohajeri<sup>1</sup>

### **Abstract**

According to the basic rules of sharia and the general rule of contracts, the registration of any transaction is not considered one of its elements and does not affect its validity, but only has a proof aspect. Nevertheless, the new needs of the society require that immovable transactions be registered. The author of the present study, employing a descriptive-analytical method and collecting data through desk research, aim to examine and elucidate the most significant harms resulting from the non-mandatory registration of real estate transactions within our legal system. The findings of this research indicate that transactions concerning immovable property, if not registered, entail multiple adverse effects; to such an extent that they currently give rise to numerous problems within the social system. The continuation of this situation, in addition to fostering widespread corruption, poses a threat to both the economic and judicial systems and, in certain cases, undermines judicial justice.

**Keywords:** Registration, Deed, Immovable Property, Conflicting Transaction, Compulsory Notarization of the Contract

---

1. Graduated in Family Law, Faculty of Law and Islamic Studies, Imam Sadeq University, Tehran, Iran