



The Legal Procedures of the Cadastral Survey Process and the Resulting Effects

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Abstract:

The cadastral survey process is a technical and legal operation carried out by specialized administrative institutions. It passes through several stages, aiming to uncover the legal status of the surveyed properties and identify their owners. To carry out this process, several legal procedures must be undertaken during the preparatory phase, field phase, and post-survey phase. The cadastral survey process results in several effects, such as temporary and final property numbering and the preparation and issuance of the property register, which is considered a title deed for the owners of the surveyed properties. Through this research paper, we address in the first section the practical stages of the cadastral survey process, and in the second section, we examine the legal effects resulting from the cadastral survey process.

Keywords: legal procedures; cadastral survey process; property numbering; property register.

Introduction :

The cadastral survey process is a technical and legal process aimed at revealing the actual and legal status of the surveyed properties and determining their owners, carried out by specialized administrative bodies. The survey helps in identifying and describing the property by determining the natural boundaries of the properties, and it contributes to the purification of property ownership throughout the national territory, which leads to the stability of real estate transactions.

The cadastral survey process is organized by specialized administrative bodies, including the National Agency for Land Surveying, the Land Survey

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Committee, and investigators from the State Property Administration and Land Registry.

The cadastral survey process involves complex procedures, starting with the preparatory stage and the field stage until the preparation and deposit of survey documents at the Land Registry Office to obtain the property register, which serves as a title deed. This has led us to raise the following question: **What are the procedures of the cadastral survey process? And what are its resulting effects?**

This study aims to identify the practical stages of the cadastral survey process, such as the preparatory stage, which includes aerial photography and document collection, in addition to the opening of the survey process; the field stage, which includes the municipal district demarcation and real estate investigation; and the post-survey stage, which includes the preparation and deposit of survey documents at the Land Registry Office. The study also aims to identify the effects resulting from the survey process, which include property numbering and the preparation of the property register, considered as a title deed for property owners.

To regulate the cadastral survey process, the Algerian legislator has issued several legislative and regulatory texts in addition to instructions and explanatory notes from some competent public bodies. Several valuable studies and research works have also been issued in this area, such as the reference by Dr. Melissa Hammoud entitled *"The Legal System of the General Land Survey and Its Role in Preparing the Property Register"*, in which she covered the survey process from its definition to dispute settlement. However, in our study, we will focus on two key elements: the procedures for organizing the cadastral survey process and the resulting effects of this process.

To study this topic, we have adopted the content analysis method to analyze the content of legal provisions and texts governing the cadastral survey process.

The topic is divided into two Chapters:

THE FIRST TOPIC: The practical stages of the cadastral survey process.

THE SECOND TOPIC: The resulting effects of the cadastral survey process.

THE FIRST TOPIC : The practical stages of the cadastral survey process.

From the interpretation of Executive Decree No: 76/62 on the preparation of the general land survey ⁽¹⁾, it appears that the cadastral survey passes through a

¹ Executive Decree No. 76/62 dated March 25, 1976, concerning the preparation of the general land survey, Official Gazette, No. 30, issued on April 13, 1976.



series of technical and administrative legal procedures that can be summarized in three stages. The first stage is preparatory, the second is fieldwork, and the third includes the results of the first and second stages.

In this section, we will discuss:

The preparatory stage of the cadastral survey, The field stage of the cadastral survey, The post-survey stage.

FIRST REQUIREMENT: The Preparatory Stage of the Cadastral Survey

Preparatory work includes:

Firstly-Aerial photography and collection of documents and maps,

Subdivision of the municipal territory and preparation of boundary plans-

Secondly

Launching the general land survey process, -**Third**

Fourth-Formation of the Land Survey Committee.

Firstly--Aerial Photography and Collection of Documents and Maps

The investigation begins with the property status card, prepared from the map of the concerned municipality developed by the National Institute of Cartography, which handles the aerial photography. The captured images are delivered to the Land Survey and Land Registry Directorate. Based on them, the topographic graphic plan is prepared to enable the subdivision of the municipal territory. The survey office manager collects all available plans related to the surveyed municipality, coordinating efforts to gather all necessary plans, especially old ones.

Other essential documents for land surveying include:

-Property documents related to state and municipal properties prior to the Agricultural Revolution Law.

-Documents concerning expropriation operations at the municipal level.

-Property documents on concessions, allocations, and transfers.

-Property documents available at public services.

There are also critical documents related to the demarcation of municipal boundaries, such as those issued under Law No. 84/09 ⁽²⁾, on regional organization and maps of old administrative units. These are essential for understanding the municipality's borders and perimeter.

² Law No. 84/09 dated February 4, 1984, concerning the regional organization of the country, Official Gazette, No. 6, issued on February 7, 1984.



In collecting documents, the provincial survey director contacts the State Property Inspectorate for the list of private municipal properties prior to nationalization. This list is supplemented with information from the land registrar on properties publicized by the municipality, and a list of landowners and their registered rights, prepared by the land registry. Also necessary is the tax registry from the tax authorities. Once collected, documents are reviewed, arranged, and indexed for easy use during fieldwork, while unusable documents are excluded for preservation.

Secondly-Subdivision of the Municipal Territory

This stage relies on purely technical standards and involves two steps:

- Division of the municipality into cadastral sections,
- Numbering of cadastral sections.

-1-Division of the Municipality into Cadastral Sections

A municipality cannot be surveyed all at once; a plan must be prepared after all maps of the area are compiled. The division is based on documents prepared by a topographic expert and must meet the following conditions:

- The section must have clear (natural or artificial) boundaries,
- Named places should not be divided; a section must contain the entire named area,
- Homogeneous property units should not be divided. ⁽³⁾

A special technique is used, starting with understanding the municipal boundaries. The agent uses a special scale drawn on transparent paper and applies it to the map to subdivide the area. The scale varies depending on the map and whether the area is urban or rural.

-2-Numbering of Cadastral Sections

Once the municipality is divided, the sections are numbered in an uninterrupted ascending order, starting with section 01 in the northwest. The numbering continues horizontally eastward to the municipal limit, then westward in a zigzag pattern, ensuring two adjacent sections receive consecutive numbers. Urban and rural sections must not be mixed in the numbering process.

Once these tasks are completed, the Director of Land Survey and Land Registry proposes to the governor the issuance of a decision announcing the start of the general land survey process and the formation of the Land Survey Committee.

Third-Launching the General Land Survey Process

³ Memorandum No. 1225 dated July 15, 1999, concerning the role of investigators affiliated with the State Property Department in investigations related to the land survey, Directorate General of National Property, Ministry of Finance.



The start of survey operations in each municipality is announced through a decision by the competent governor, based on a proposal from the Directorate of Land Survey and Land Registry. The governor's decision states the opening date of the operations, which must begin within one month of the decision's publication, as per Article 02 of Decree 76/62.

This decision is published in the Official Gazette, the administrative decision collection of the relevant province, and daily national newspapers. It is also communicated to the president of the relevant municipal council and posted at the district and neighboring municipality headquarters 15 days before the start, as per Article 03 of Decree 76/62. This allows stakeholders to attend and provide statements that facilitate the cadastral survey.

The governor's decision serves as a legal authorization for the survey's commencement in the municipality. Provincial survey directors, under regional directors, must ensure strict implementation, including preparing a report for the National Agency for Land Surveying ⁽⁴⁾.

Fourth-Formation of the Land Survey Committee

According to Article 7 of Executive Decree No. 92/134 amending Decree No. 76/62: "A land survey committee shall be formed to establish boundaries in each municipality upon the commencement of survey operations..."

The committee is established by a governor's decision and is named the Municipal Land Survey Committee for the concerned municipality. It consists of permanent and temporary members, depending on the area's nature.

1-Composition of the Land Survey Committee

According to Article 7 of Decree 76/62 (as amended by Decree 92/134) ⁽⁵⁾, the committee includes:

- A judge from the local court (President), appointed by the Chief Justice,
- The president of the municipal council or representative (Vice President),
- Representative of the local direct tax administration,
- Representative of the local national property administration,
- Representative of the Ministry of National Defense,
- Representative of the state's urban planning department,
- Notary appointed by the professional organization (Regional Chamber of Notaries),

⁴ حمود ملىسا، النظام القانونى لمسح الاراضى العام ودوره فى اعداد الدفتر العقارى، الفا للوثائق، الطبعة الاولى، قسنطينة-الجزائر، 50 P.2024

⁵ Executive Decree No. 92/134 dated April 7, 1992, amending and supplementing Executive Decree No. 76/62 on the preparation of the general land survey, mentioned above, Official Gazette No. 26, issued on April 8, 1992.



- Competent local land registrar or representative,
- Local representative of the National Agency for Land Surveying or representative.

The committee may also include:

- Representative of the provincial Directorate of Culture (for protected areas),
- Representatives of local agriculture and irrigation departments (for non-urban operations).

The committee meets at the request of the provincial land survey manager and upon invitation by its president. The member representing the Directorate of Land Survey and Land Registry acts as secretary and prepares detailed minutes. Decisions are made by majority vote. ⁽⁶⁾

One criticism of this committee is that it is composed of several members, which makes it difficult to gather all of them at the same time to set boundaries in each municipality as soon as the surveying operations commence.

2 – Duties of the Land Survey Committee

Article 9 of Executive Decree No. 76/62 mentioned above defined the tasks of this committee as follows:

- Collecting documents and data to facilitate the preparation of survey documents.

- Verifying, where necessary, the agreement of concerned parties regarding the boundaries of their properties, and, in case of disagreement, reconciling them if possible.

- Deciding, based on all documents, deeds, and ownership certificates, on all disputes that could not be settled amicably.

To facilitate the committee's performance of these tasks, and pursuant to Article 10 of the aforementioned Executive Decree No. 76/62, the legislator encouraged owners, holders, and rights-holders to be present in person and to provide their observations during the field visit of the survey agents to set property boundaries with the help of the owners.

To ensure the success of the process, the technical topographic works are carried out by the department in charge of land surveying either through direct administration or with the assistance of specialized public institutions.

⁶حمود مليسا، المرجع السابق ، ص 50 .



SECOND REQUIREMENT: The Field Phase

The committee begins its work initially in offices by collecting all documents and data, including maps and plans, obtained from the relevant municipality or municipalities and the concerned land registry offices, in order to facilitate the preparation of survey documents. After defining the municipal territory and setting boundaries, the most important phase follows: the property investigation phase, through which ownership rights and other related real rights are examined to reflect the boundaries accordingly. This will be discussed in detail as follows:

Firstly – The Demarcation Process

The demarcation process in land surveying includes three types: municipal territory demarcation, known-place demarcation, and ownership part demarcation.

1 – Municipal Territory Demarcation

This is a process aimed at determining the territorial boundaries of the municipality subject to land surveying. Article 5, paragraph one of Executive Decree No. 76/62 regarding the preparation of the general land survey, amended and supplemented, states: "Municipalities must define the perimeter of their territories..." Hence, defining the perimeter of the territory is the first field step of the land surveying process.

The purpose of demarcation is to identify the municipal boundaries to facilitate and regulate the survey process based on official documents held by the survey office. These boundaries are transferred to a boundary determination report to be shown on a graphical boundary plan attached to the report. This demarcation is carried out by an employee in charge of survey operations in coordination with the relevant municipal council president and neighboring municipalities' presidents. In case of any objection or minor modification proposal to the boundaries, the employee notes it in the demarcation report, which is then signed by all participants in the demarcation process, with the approval of the Wali (Governor) or the Minister of the Interior if the boundary borders another province or another country.

2 – Known-Place Demarcation

A known place is a location corresponding to a group of ownership parts within one section.

The demarcation of these places is based on available documents provided by owners. In cases of boundary ambiguity, they are clarified with the help of resident testimonies familiar with the area, without infringing on property boundaries.

In the demarcation of known places, it must be ensured they lie within one survey section. If this is not possible due to the area's vastness, the known place is divided while maintaining the original scale, with an additional explanation derived from its geographic location.



If the number of known places is large, some may be omitted, especially in large cities, to obtain a clear survey plan.

3 – Ownership Part Demarcation

An ownership part is a section of a known place and consists of adjacent land parcels subject to the same burdens and rights, belonging to one owner or held in joint ownership. Thus, it constitutes an independent real estate unit based on the given ownership classification, with clear boundaries. For instance, if a national road is constructed through a property, it divides it into two ownership parts, each with a separate number, even if they belong to the same owner. The purpose of ownership demarcation is to define its structure based on ownership rights or usufruct rights.

Boundary Marking Process-Secondly

There are often discrepancies between boundaries in documents and those identified in the field. To avoid such issues, the survey department marks boundaries in the field with visible signs after agreement among concerned owners. The demarcation process is therefore conducted

publicly, with all concerned individuals summoned ⁽⁷⁾, in addition to announcements made in national newspapers and designated public places.

Personal summonses are made through a letter requesting the person's presence during the demarcation of their property. Attendance must be personal or via a representative.

Those concerned are summoned through personal notifications sent via T3 letters inviting them to participate in confirming their property boundaries in agreement with neighbors. Another letter is sent to relevant public departments, reminding them of their obligation to define the boundaries of their properties and inviting them to appoint a legally authorized representative. Summonses are sent three times over a 15-day period. If neighboring owners fail to attend, the demarcation is conducted unilaterally based on possession and use facts, and the surveyed parcels are recorded. The nature of the land's use or designation is noted on form T4, and the boundaries of public properties are fixed either in the presence of technical department representatives based on their statements or using submitted plans.

At the end of the demarcation process, a set of cards is prepared—some for ownership parts and others for owners.

⁷ Ordinance No. 75-74 dated November 12, 1975, concerning the preparation of the general land survey and the establishment of the land register, Article 09, Official Gazette No. 92, issued on November 18, 1975.



They are as follows:

▪ **Cards for Ownership Parts:** These vary based on the type of property:

-For rural properties: T7 and T10 property cards.

-For built urban properties: T8 and T10 cards.

-For unbuilt or vacant urban properties: T10 card.

-For joint/shared ownership: T9, T10, and T8 cards.

-T7 property investigation card for rural property indicates the origin of ownership (old numbering).

-T4 ownership part card shows property details (building, garden, well, etc.).

▪ **Cards for Persons:** These are T5-type cards for natural or legal persons ⁽⁸⁾, prepared in duplicate. The survey technician keeps the original card, and the second copy is given to the owner.

Third – Property Investigation Process

The investigation is one of the most important procedures in land surveying, announced by a decision from the Wali and carried out in parallel with boundary marking operations ⁽⁹⁾. During the investigation, an inventory and verification of the physical and legal state of the property to be surveyed is conducted. This process aims to collect all elements necessary to verify ownership rights, other related real rights, or any burdens on the property, and gather information to identify rights holders and apply that information.

The investigation process is overseen by two investigators—one from the land registry and one from the State Property Department—in addition to a municipal officer representing the municipality in relation to municipal properties. All these officers work under the supervision of the survey team leader and are responsible for:

-Examining deeds and documents submitted to prove real rights and the identity of right holders.

-Collecting statements and testimonies from concerned individuals.

-Raising any useful opinions and observations for the investigation.

-Collecting all facts to evaluate possession claims by verifying the fulfillment of legal elements and conditions.

-Highlighting possible state rights over the surveyed properties.

-Comparing information collected in the field with that available at the land registry, the State Property Directorate, and other documents obtained during preparatory work by the survey department.

⁸ (T6) cards for legal persons; they were abolished and replaced with a single version, T5, for both natural and legal persons.

⁹ حمود مليسا، المرجع السابق ، ص 62 .



Based on the responsibilities assigned to the officers in charge of the property investigation, we can say that this process involves identifying right holders—whether natural or legal persons—and verifying ownership rights and related real rights.

The inspection of real property rights and other real rights is conducted by the technical team traveling to the location of the properties subject to survey and performing the inspection through the evidentiary documents held by the owners or through the statements and declarations of neighboring owners in the absence of such documents.

When inspecting property rights based on a document, evidence in this case relies on a thorough examination of the submitted ownership document, ensuring it includes all legally required conditions for documents that prove private real estate ownership. Additionally, the nature of the information contained in the document is verified for consistency with the property on the ground, and an investigation is conducted to determine whether the property is encumbered with an unregistered real right. Moreover, it is necessary to confirm that there has been no subsequent disposition of the ownership right, all of which is done by reviewing the archives of the land registry office.⁽¹⁰⁾

When inspecting real property rights in the absence of documentation, the inspection is conducted through inquiry, investigation, and information gathering with the aim of collecting as much relevant information as possible to prove possession. This entails a deep investigation to gather all necessary elements constituting the claimed possession. The person claiming possession must present all evidence proving possession. Furthermore, the archives of the land registry office must be examined to determine whether any registered right exists on the surveyed parcels that might conflict with the declared possession.

Upon the conclusion of the real estate investigation, final boundaries are established, and a set of documents is prepared that formalizes the results of the cadastral survey. These documents include a set of real estate records forming the land registry, which reflect the legal status of the property. The surveyors encounter the following cases: property with legal ownership documentation, property without such documents, or property that was investigated but not claimed by anyone.

Fourth - Boundary Demarcation Process

The processed aerial image of each survey section is placed on a light table, with transparent paper laid over it. The boundaries of the survey section are then

¹⁰حمود مليسا، المرجع السابق ، ص 66 .



carefully drawn, using the boundary plan, which is also used to draw property boundaries in known areas and roads in rural zones.

In urban areas, final boundaries are represented on the second copy of the schematic plan with final numbering following the same procedure used for survey section numbering. Temporary numbers are erased using special ink, and final numbers are placed in front of them.

The original schematic plan is then digitized, and the same applies to the modified second copy. After this, the original version of the schematic plan is obtained, and the computation process begins on a computer for each survey section independently, measuring the area of all constituent property parts.

After the boundary demarcation is completed, the concerned technician performs corrections.

THIRD REQUIREMENT:Post-Cadastral Survey Phase

To assess the outcomes of the cadastral survey, it is necessary to prepare survey documents highlighting key property information. These are deposited at the municipality so the concerned parties can file objections before the Cadastral Survey Committee for resolution. The cadastral survey process then concludes. This includes:

Firstly – Preparation of Survey Documents

They are prepared based on the report of findings from the cadastral investigation. Article 1 of Executive Decree No. 76/62, which explains Article 8 of Ordinance 75/74 related to the preparation of the general land survey and the establishment of the land registry, provides that the land survey design must include in each municipality:

Section Table: A document containing multiple fields recording information related to property parts, owner's account, and arranging properties according to the topographic order of sections. It serves as a detailed explanation of the cadastral plan.

Land Survey Register: A table with multiple fields containing all information about the property, such as section number, part of ownership, ownership status, area, land use nature, and property count.

Account Table: A document containing field-derived information recorded by technical agents during measurement and identification. It includes the owner's account number and the number of properties owned within the surveyed municipality, serving as an identification card for each owner.



Land Survey Plan: A graphic representation of the surveyed area in full detail, divided into sections, known locations, ownership parts, and land parcels, reflecting the current state of the land.

Real Estate Card (T10): This includes all necessary information to define the legal nature of the property and the owner or possessor. It shows whether the property is documented or not, meets legal possession conditions enabling acquisition by adverse possession, or lacks any elements to allow the land registrar to determine the existence of real rights in favor of the apparent owner, or that the investigated property was not claimed by anyone. Based on this card, property numbering is carried out. ⁽¹¹⁾

Second - Legal Deposit of Survey Documents with the Municipality

After preparing and signing the survey documents, one copy must be deposited at each municipality and another at the office responsible for maintaining the land registry at the land registry office.

1 - Deposit at the Municipality

Documents are deposited at the municipal office for at least one month after the conclusion of technical work to allow concerned parties to review them. Article 11 of Executive Decree No. 76/62, amended by Article 1 of Executive Decree No. 92/134, states: "The land survey plan and its annexed documents are deposited at the municipality for at least one month after the completion of technical work, allowing concerned parties to review them... The deposit may also occur upon completing technical work for a section or group of sections if the cadastral survey in the municipality exceeds one year."

This article lacks precision regarding the deadline's start and end, making the phrase "at least one month" open to delays and procrastination. It would have been better for the legislator to specify the deadline precisely.

The head of the survey office delivers the documents to the head of the municipal council, who in turn provides a deposit receipt. This is announced in common posting areas of the concerned and neighboring municipalities through written or verbal announcements or notices. Any party whose rights may be affected can file objections within the legal deadline by stating reasons and presenting sufficient evidence, either in writing to the municipal council head or verbally to the cadastral survey team leader present at the municipality during publicly announced days and hours. The team leader records it in a log at the end of the deposit period.

¹¹ Instruction No. 16 dated May 24, 1998, concerning the conduct of general land survey operations and cadastral numbering, issued by the Directorate General of National Property, Ministry of Finance, Algeria.



2 - Deposit at the Land Registry Office

As the land registry is the final station for confirming original real rights, the land survey office director deposits a second copy of the documents with the regionally competent land registry office to define and register ownership and other real rights in the land registry, concluding with the issuance of the real estate deed.

Third - Completion of the Survey Process

Once the land survey process is complete, its work concludes, and the resulting documents match the current real estate ownership situation, becoming effective. Article 10 of Ordinance 74/75 mandates that three copies be prepared: one sent to the municipality for public consultation under the municipal council head's responsibility, another retained at the survey department for access by survey agents, public bodies, and private individuals, and the third deposited at the land registry for land register establishment.

THE SECOND TOPIC : Consequences of the Cadastral Survey

Upon receipt of the land survey documents, the land registrar immediately registers the surveyed properties in the land registry⁽¹²⁾. Upon signing the delivery record, the cadastral numbering is considered complete.

The desired outcome of the survey is to determine the legal status of the property by registering surveyed properties and issuing the real estate deed to entitled individuals as an administrative document. Based on the T10 real estate card, the type of cadastral numbering is identified as either temporary or final, depending on the documents submitted by the apparent owner claiming ownership of the surveyed property.

The Algerian legislator allows any interested party to request a review of the cadastral numbering through the judiciary, whether in civil or administrative courts. We will address these procedures by explaining the types of cadastral numbering for ownership and possible scenarios.

Through this section, we will study **first** the property numbering, and **second** the property certificate (land title).

FIRST REQUIREMENT: Property Numbering

According to Article 11 of Executive Decree No. 76/63 relating to the establishment of the land registry⁽¹³⁾, as amended by Executive Decree No. 93/123

¹² The land register in Algerian law is a collection of land title cards, as stipulated in Article 3 of Ordinance No. 75/74: "The land register constitutes the legal status of properties and shows the circulation of real rights." Article 12 of the same ordinance stipulates that the land register mentioned in Article 3 above shall be kept in each municipality as a collection of land title cards, prepared in advance by conducting a survey of lands within the municipality's territory.



⁽¹⁴⁾, the land registrar numbers the surveyed properties in the land registry as soon as he receives the survey documents upon completion of survey operations within a given municipality. The property numbering is considered complete on the date of signing the minutes of delivery of the land survey documents, where the agents assigned in the office register the information in the land survey register under the section for numbering surveyed properties, which the director hands over to the land registrar after endorsing it.

Numbering differs based on the submitted ownership proof documents, as follows:

Firstly: Final Numbering of Properties

The property is given a final number directly according to Article 12 of Decree No. 76/63, as amended by Executive Decree No. 93/123, if the property owner proves ownership with registered title deeds, whether notarized contracts or court rulings confirming real property rights. It also applies if the proof is through authenticated private contracts dated before 01-01-1971. In this case, a property certificate is issued to the owner. ⁽¹⁵⁾

B-Temporary Numbering of Properties

Property numbering is temporary when the holder does not possess formal title deeds proving ownership of the surveyed property, or when the rightful owner or any person claiming entitlement to the property appears. In such cases, the property is temporarily numbered for a certain period, which differs according to the following situations:

-The property is temporarily numbered for four months if it is without a title deed, and the holder has proof of possession. Then, it is given a final number, and a property certificate is issued to the holder after four months, pursuant to Article 13 of Decree No. 76/63 as amended.

-The property is temporarily numbered for two years, according to Article 14 of Decree No. 76/63 as amended, for properties whose apparent owners do not have sufficient documentation or any evidence indicating possession. After two years from the date of the minutes, it is assigned a final number.

Objections may arise during the temporary numbering period. Under Article 15 of Decree No. 76/63, as amended, anyone claiming real rights over the surveyed properties must notify both the land registrar and the opposing party via registered letter. The objection must be recorded within the time limits set by Articles 13 and

¹³ Executive Decree No. 76/63 dated March 25, 1976, concerning the establishment of the land register, Official Gazette No. 30, issued on April 21, 1976.

¹⁴ Executive Decree No. 93/123 dated May 19, 1993, amending and supplementing Executive Decree No. 76/63 on the establishment of the land register, Official Gazette No. 34, issued on May 23, 1993.

¹⁵ مجيد خلفوني، شهر التصرفات العقارية في القانون العقاري الجزائري، دار هوم، الطبعة الأولى، الجزائر، 2008، ص 16.



14 of the same decree. If objections are raised outside the legal deadlines and the numbering becomes final, the only option left for objectors is to appeal to the competent administrative court. ⁽¹⁶⁾

It is noted that during the temporary property numbering period, the land registrar does not issue the property certificate but only a temporary numbering certificate. The property certificate is granted only after final numbering.

When the numbering becomes final, a property certificate is issued to the rightful owner. This certificate represents the new format of the title deed and is akin to a national identity card for the property. Each property has its own certificate. If there are multiple owners, such as heirs or co-owners, they must authorize one of them through a power of attorney to collect the property certificate.

The consequence of final numbering is not the enforceability of registered rights against third parties, but rather that it constitutes ownership and gives the official deed evidentiary force ⁽¹⁷⁾, If objections are raised within the legal time, they are recorded in the objections register at the land registry office ⁽¹⁸⁾, The land registrar then attempts reconciliation between the parties. There are three possible outcomes:

First possibility: reconciliation is reached. The land registrar drafts a reconciliation report, which holds binding force.

Second possibility: reconciliation fails. The land registrar drafts a report of non-reconciliation and notifies the parties. They then have six months from the date of notification to file a lawsuit before the real estate division of the court of first instance (if the parties are private individuals).

Third possibility: the parties ignore the land registrar's summons, which puts the registrar in doubt about the decision to make. However, within his authority and jurisdiction, he may send three successive summonses at different times to hold a reconciliation session. If both parties fail to respond, he drafts a report

¹⁶ According to the provisions of Article 16 of Executive Decree No. 76-63, as amended by Executive Decree No. 93/123, rights resulting from temporary numbering conducted under Articles 13 and 14 of the decree cannot be reconsidered. That is, the numbering retains its temporary nature until a final judicial ruling is issued. It is noted that Article 16 does not specify the judicial authority competent to reconsider the temporary numbering. However, judicial interpretation intervened to determine the competent authority, stating that: since the action to cancel the final numbering as an administrative decision culminating in the issuance of the land title is filed against the Land Registrar, it is brought before the administrative judiciary.

¹⁷ لبيض ليلي، منازعات الشهر العقاري في التشريع الجزائري، أطروحة دكتوراه في العلوم القانونية، كلية الحقوق، جامعة محمد خيضر، بسكرة، 2011-2012، ص134.

¹⁸ ريم مراحي، دور المسح العقاري في إثبات الملكية العقارية في التشريع الجزائري، منشورات بغداد، الجزائر، 2009، ص114.



noting their absence and the failure of the reconciliation attempt. He then notifies both parties and informs the opposing party of the deadline for filing a lawsuit.⁽¹⁹⁾

Secondly-Numbering in the Account of Unclaimed Property (formerly – Unknown Owner)

Field investigation during land surveying revealed numerous legal issues, most notably properties recorded under the account of unclaimed properties—plots or lands for which investigation at the land registry and in the field during the survey failed to identify an owner, and no one claimed them during the process.

Article 67 of the 2015⁽²⁰⁾, Finance Law stated: “Under Section Four of Chapter Two of Ordinance No. 75-74 dated November 12, 1975, concerning general land surveying and the establishment of the land registry, Article 23 bis is added as follows: ‘Any property not claimed during land survey operations shall be definitively numbered in the name of the State...’”

The legislator then attempted to address this with a second amendment in the 2018 Finance Law⁽²¹⁾, where Article 89 amended Article 23 bis to state: “Any privately owned property not claimed during land survey operations and whose owner or possessor could not be identified by the survey services shall be registered in an account called ‘Account of Unclaimed Properties during Land Survey Operations’ and given a temporary number for fifteen (15) years from the date the survey documents are filed with the land registry...”

This new provision introduced a new type of temporary numbering—temporary numbering for 15 years.

On April 5, 2018, the General Directorate of State Property issued Memorandum No. 4060 regarding the settlement of unclaimed properties during land survey operations. The memorandum explained how to apply Article 89 of the 2018 Finance Law, which amended Article 23 bis of Ordinance 75/74. It introduced a new account called “Unclaimed Properties during Survey Operations,” replacing the previous “Unknown Owner” account. The memo aimed to clarify the new procedures and how to apply them.⁽²²⁾

¹⁹نوبري رشيد، تأسيس السجل العقاري وسير عملية الترقيمات العقارية، دليل عملي، المديرية الولائية للحفظ العقاري، تبسة، ص10.

²⁰ Law No. 14/10 dated December 30, 2014, concerning the Finance Law for the year 2015, Official Gazette No. 78, issued on December 31, 2014.

²¹ Law No. 17/11 dated December 27, 2017, concerning the Finance Law for the year 2018, Official Gazette No. 76, issued on December 28, 2017.

²² Memorandum No. 910 dated 29-01-2020, issued by the Directorate General of National Property, concerning the regularization of unclaimed properties during survey work. It clearly and decisively stipulates the abandonment of the provisions of Memorandum No. 5590 dated 06/06/2013; it was replaced with procedures stipulated in Memorandum No. 4060 and became ineffective due to the provisions of Article 89 of the 2018 Finance Law.



Once the surveying phase is completed, the surveying department hands over all documents resulting from the land investigation to the land registry office ⁽²³⁾. After the registrar reviews these documents and checks the registry's archive, if no information about the land is found, he gives it a temporary number in the "Unclaimed Properties" account for fifteen (15) years from the date the survey documents were submitted. If the period ends without any objection, the numbering becomes final, and the land becomes state property.

If the 15-year period ends and the property is numbered in the name of the State, the owner or possessor may still appeal to the competent administrative court to request re-numbering based on ownership or possession.

The purpose of temporary numbering under the unclaimed property account is to protect private ownership rights. If an objection is filed, the settlement of such properties is handled by the relevant land registry office. A settlement request may be submitted with:

-In the case of unofficial (unregistered) documents—official or private—or in the case of possession, documents such as tax certificates, urban planning decisions, administrative or judicial deeds may be presented. If documentation is insufficient, a possession certificate may be requested. Once all settlement conditions are met, the Director of Surveying and Land Registration orders the registrar to assign a temporary number for two years starting from the date of the settlement request. During this time, the land registrar must record and resolve any objections per Article 15 of Decree 76/63, as amended. Once the temporary period ends, the property is registered directly in the owner's name as a general principle and assigned a final number. The surveying administration is notified.

If the objector submits official documents, i.e., a registered deed related to the property, the land is registered directly in the owner's name, assigned a final number, and the surveying administration is notified. Two possibilities arise:

First possibility: the registered deed shows the same area as in the survey documents. No issue arises, and the registrar proceeds with final numbering and delivers the property certificate to the owner.

Second possibility: the document refers to only part of the area recorded in the temporary numbering. In this case, additional procedures are required, as the matter concerns boundaries and ownership. A field inspection by an accredited real estate expert is required, along with official notification to the survey administration.

²³ Article 34 of Law No. 18-18 dated December 27, 2018, concerning the Finance Law for the year 2019, Official Gazette No. 79, which amends the provisions of Article 11 of Ordinance No. 75-74 concerning the preparation of the general land survey and the establishment of the land register, mentioned above.



SECOND REQUIREMENT: Property Certificate (Land Title)

Ownership of real estate cannot be proven except through the property certificate issued by the land registrar. It is the only valid document to prove real estate ownership in surveyed areas.

Firstly: Issuing the Property Certificate

If the numbering is temporary, the land registrar issues a certificate of temporary numbering.

If the numbering is final, the registrar does not issue an administrative certificate but rather prepares the property certificate, as it is a direct outcome of the final numbering. It is only granted to individuals whose ownership of the property is proven, and the beneficiary must pay a registration fee determined by the Finance Law. The legislator established a specific format for the property certificate to comply with the model approved by the Minister of Finance. It must be clearly and indelibly marked in black ink. Erasures, deletions, or errors are corrected by references and a line is drawn in ink after each entry.

According to Article 19 of Ordinance 75/74, the Algerian legislator considers the property certificate the only valid proof of ownership in areas covered by the general land survey. This principle has been confirmed by various consistent judicial decisions.

Secondly: Delivery of the Property Certificate

The property certificate is issued to the verified owner of a surveyed property. A land record is created showing the legal status of the property. The registrar delivers the certificate personally or to an authorized agent through a notarized power of attorney. All agency details are recorded in both the land record and the delivery register.

If the property is jointly owned, the registrar does not issue a separate certificate to each co-owner but instead issues a single certificate in all their names, with a requirement for an officially appointed agent to receive it.

In case of partition, the registrar creates new certificates based on the number of new plots created by the division, destroys the certificate for the original parcel, and records all operations on the land record as the legal representation of the property's status.

Any transfer of ownership does not require new land records but leads to the modification of the original certificate submitted by the former owner and its delivery to the new owner. In case of a sale, the seller's certificate is submitted along with the notarized sale contract to the land registrar, who registers the contract, endorses the certificate with the ownership change, and delivers it to the buyer.



In case of loss or damage of the certificate, the owner may request a replacement by submitting a written and justified request along with identity verification. This issuance is noted in the land record.

Conclusion:

The cadastral survey process goes through several procedures and stages. The first stage is known as the preparatory stage, during which aerial photography is carried out, documents and plans are collected, and the municipal territory is divided into cadastral sections and numbered. Then, the land survey operation is initiated by a decision issued by the territorially competent Wali (Governor). A special survey committee is then formed, whose task is to collect documents and data to facilitate the preparation of cadastral documents.

The second stage is the field stage, during which the municipal territory and the areas to be surveyed are determined, with the establishment of their boundaries and the preparation of property cards. Then, the real estate investigation is carried out to gather all the information related to all properties concerned by the survey, and to record all real rights in rem, whether original or accessory, with the utmost accuracy and dedication. The documents and deeds that prove these rights, as well as the documents verifying the identity of the right holders, are studied. After that, the final boundaries of these properties are determined and transferred to the boundary layout plan, with their delineation and registration in the cadastral register.

After the survey operation is completed, the documents of the surveyed properties are prepared and deposited at the municipal headquarters to allow the concerned parties to review them. A copy of these documents is also deposited at the Land Registry Office to be published in the land register. Ultimately, the land title is prepared and delivered to the owner of the surveyed property.

In addition to these results, we attempt to provide a set of recommendations:

- Revisiting and reviewing the legal texts related to the survey process to make them more effective.

- Establishing a national land survey school to provide proper training for those in charge of the survey process.

- Accelerating the survey process in order to determine the ownership of individuals and the state, and to prepare land titles, thereby improving the real estate market.

- The necessity of activating the role of the real estate investigation team to facilitate the investigation task.



-Carrying out awareness campaigns to educate citizens and inform them of the objectives and tasks of the cadastral survey process.

-It is noted that Article 11 of Executive Decree No. 76/62 on the preparation of the general land survey, amended by Decree No. 92/134, lacks accuracy in determining the deadline for depositing the land survey plan and its attached documents after the completion of the technical work. It fails to specify a clear start and end time. The text stating "at least one month" opens the door for procrastination and leniency on the part of the responsible authorities. Therefore, it would have been more appropriate for the legislator to set the deadline precisely to close the door to interpretations.

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