



INVESTMENT REAL ESTATE IN ALGERIA

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Abstract:

Real estate is a fundamental factor in achieving and completing various development projects. Its key characteristic is that it can be owned by a natural or legal person, regardless of its purpose. Its exploitation necessitates delivery, unlike movable properties which remain at the disposal of a natural person even if owned by a legal person, without always requiring delivery. The legislator has paid significant attention to real estate by establishing several mechanisms to protect, define, and preserve property rights related to it. Investment real estate in Algeria holds considerable importance, especially concerning economic development.

Keywords: Real estate, projects, investment, economic development.

Introduction:

Investment real estate is a contemporary topic holding significant prominence in law, especially amid economic shifts prioritizing investment for development. This has fueled the legislator's desire to regulate real estate as a stable financial asset. However, its regulation has been chaotic due to changing economic policies, leading to much inconsistency in organizing the real estate portfolio allocated for investment and its various

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exploitation mechanisms. To resolve the economic real estate dilemma, the state adopted concessions as an investment model, aiming to preserve the real estate base on one hand, and safeguard the rights of concession contract parties on the other. Nevertheless, the implementation of the concession model has sparked numerous disputes due to the succession of legal systems governing it.

We adopted a descriptive analytical approach and thus posed the following problem: What is the legal framework for investment real estate in Algeria?

Chapter One: The Concept of Investment Real Estate in Algeria

Investment real estate is one of the most vital investment sectors in Algeria, contributing to economic and social development by creating job opportunities, improving infrastructure, and attracting foreign investments.

Section One: Definition of Investment Real Estate

This term consists of two words: real estate and investment.

The Algerian legislator defined real estate in Article 683 of the Algerian Civil Code as "anything stable in its place, fixed therein, and cannot be moved from it without damage, is real estate. All else is movable real estate by nature." However, movable property placed by its owner in real estate they own, designated for the service and exploitation of that real estate, is considered **real estate by allocation**.

As for real estate by subject matter, Article 684 of the Algerian Civil Code states that "every real right falling on real estate, including ownership, as well as every lawsuit related to a real right on real estate, is considered real estate property."

Investment real estate can be defined as: "a plot of land, a building, a facility, or a group thereof, invested with the aim of achieving a financial return through leasing, selling, or developing it." (Lakhal, 2017, 2018, p. 83)

The Algerian legislator guaranteed freedom of investment in its successive constitutions, recently reaffirmed by Presidential Decree 20/442 concerning the issuance of the constitutional amendment approved in the referendum of November 1, 2020. Article 61 states: "Freedom of trade, investment, and entrepreneurship are guaranteed and exercised within the framework of the law."

The investment climate is defined as the sum of legal, economic, political, and social conditions that form the investment environment upon which investment decisions are made. The term "investment climate" refers to the set of laws, policies, institutions, and local structural, economic, political, and social characteristics that influence an investor's confidence in directing their investments to one country over another. The term has evolved to encompass a complex combination of economic, social, and political factors through which supervisory authorities seek to promote the country and its investment opportunities. This complex concept is constantly evolving to keep pace with political, technological, and regulatory changes. (Sobeihy, p. 178)

Section Two: Types of Investment Real Estate in Algeria

Investment real estate in Algeria can be divided into several types, including:

First: Tourist Real Estate: This includes land and buildings designated for establishing hotels and tourist resorts.



Algeria seeks to give the tourism sector economic dimensions given its capabilities and advantages. This involves developing national tourism as one of the drivers of sustainable development and a supporter of economic growth. This objective is recorded within the general policy of territorial planning, which has been translated by adopting a reference strategy and the 2030 Outlook vision, through the establishment of a national territorial planning scheme. This scheme aims to create a balance in the positioning of populations and activities across the national territory, as well as to develop the attractiveness of the regions.

The term "tourist real estate" is a compound of two words: real estate and tourism. Real estate refers to any fixed property with an origin, such as land and a house. Tourist refers to a country that possesses natural and archaeological qualifications. Tourism involves the movement of individuals or groups from one place to another for recreation, education, or treatment; movement from one country to another for rest, recreation, and curiosity.

According to Paragraph 1 of Article 2 of Law 03/03, "every area or expanse of territory characterized by natural, cultural, human, and creative attributes or specificities suitable for tourism, qualified for the establishment or development of a tourist facility, and which can be exploited for the development of one or more profitable types of tourism," is defined as stated in Paragraph 2 of Article 3 of Law 01/03 related to sustainable tourism development.

The tourism and handicrafts sector possesses a real estate base consisting of 225 tourist expansion zones with a total area of 56,472.06 hectares distributed across 34 wilayas. Among these 225 tourist expansion zones:

- 166 tourist expansion zones are distributed across 14 coastal wilayas.

- 36 tourist expansion zones are distributed across 12 wilayas in the high plateaus.
- 23 tourist expansion zones are distributed across 8 southern wilayas. An example is the Timgad archaeological site, located 33 km from Batna city, classified as a World Heritage Site in 1982 by UNESCO. Its establishment dates back to 100 AD by the Roman Emperor Trajan. The city of Timgad was built according to the plans of a Roman camp in a square shape measuring 333m, traversed by two main Roman roads: Cardo Maximus and Decumanus Maximus, meeting in the center of the forum. This site contains the forum, a theatre with 3500 seats, baths, a temple, a library, and a market. Next to the monument, the Byzantine fortress was built, with a cemetery containing 10,000 tombs. The monument was rediscovered during the first excavations in 1881. (Saib, 2019, p. 281)

- **Tourist Site:** Defined by Paragraph 1 of Article 3 of Law 03/03 as "any landscape or site characterized by tourist attractiveness due to its picturesque appearance, or what it contains of natural wonders or specificities, or built structures upon it, recognized for historical, artistic, mythical, or cultural importance, whose authenticity must be valued and preserved from damage or disappearance due to nature or human action." The same definition is found in Paragraph 3 of Article 3 of Law 01/03 related to sustainable development.

- **Protected Area:** Defined by Paragraph 3 of Article 03 of Law 03/03 as "a part of an expansion zone or a tourist site that is not suitable for construction and requires special protection to preserve its natural, archaeological, or cultural potential." Protected areas are classified based on their ecological reality into seven categories: national park, natural park, full natural reserve, natural reserve (Article 04, Law 02/11, 2011), etc.



The Algerian legislator defined the composition of buildable tourist real estate from lands designated for this purpose in the tourist development plan, regardless of the legal nature of the lands within the tourist expansion zones or sites defined in the tourist development plan, and includes lands belonging to public and private national domains, and those belonging to private individuals (Article 20, Law 03/03, 2003).

Second: Industrial Real Estate: This includes land and buildings designated for establishing factories and industrial companies.

The regulation of industrial real estate in Algeria is closely linked to investment laws. The attempt to attract investment began with Law 277/63 (Law 63/277, Official Gazette 53, 1963), which aimed to attract capital and encourage local and foreign investment. However, this law did not achieve its stated goal due to its conflict with nationalization operations, consequently leading to investor reluctance and the absence of implementing texts for this law, as well as procedural restrictions imposed by the legislator on investors.

Anyone following the legal framework for investment and the status of real estate designated for establishing investment projects at that time can deduce that the legislator's intention was not to establish a legal system for economic projects, but rather to preserve the acquired real estate assets.

However, the industrial sector experienced a significant boom with the issuance of the investment law under 166/284 (Law 66/284, Official Gazette 80, 1966). The Algerian state prohibited investment in vital sectors under this order, but it did not achieve its stated goals due to the possibility of nationalization (Mahmoudi, 2019, p. 15).

The policy of national plans was then implemented during the decade from 1967-1977, in addition to the establishment of the first regulatory text concerning industrial zones. Therefore, the beginning of industrial real estate regulation under the 1966 Investment Law was with the issuance of Decree 73/45 (Decree 73/45, Official Gazette 20, 1973), which established an advisory committee for the development of industrial zones responsible for urban planning, headquartered at the Ministry of Public Works and Construction, with the aim of promoting industrial zones in the best possible way and developing urban areas.

Then, Order 74/26 (Order 74/26, Official Gazette 19, 1974) was issued, which included real estate reserves for the benefit of municipalities. Through this order, municipalities collected and formed industrial real estate for the benefit of local authorities, thus intervening in industrial zones. This order enabled municipalities to develop plots of land designated for construction and to sell them ("transfer based on the assessment of the state property department, municipal real estate reserves are allocated for state and local government investments of all kinds. For all investments other than those carried out by the concerned municipality, the municipality transfers the land for compensation based on the assessment of the state property department, taking into account expenses of all kinds incurred by the municipality. The sale of land plots is public and takes place after a deliberation by the Municipal People's Assembly based on a list containing candidates for publication or open to the public for viewing.").

The issuance of the 1982 Investment Law was characterized by: The annulment of Order 66-284 concerning investments, and its replacement by Law 11/82 concerning national private economic investment, and Law 13/82 concerning the establishment and operation of mixed economic companies. It encouraged foreign and local investment and distinguished between them, granting



in-kind privileges to investors. It also included the issuance of regulations concerning the administration and management of industrial zones.

National or local investments under the 1982 Investment Law were granted based on prior approval after obtaining the conforming opinion of the national committee or wilaya committees responsible for reviewing accreditation requests submitted by investors, depending on the investment amount or value (3 or 30 million Algerian dinars). As for joint foreign investment, its projects were carried out through an agreement between the Algerian party, which was to be agreed upon by a joint ministerial decision, and the agreement was governed by the well-known 49-51 percent rule for a period of 156 years, renewable.

Then, Decree 55/84 dated March 3, 1984, concerning the administration of industrial zones, was issued. Article 6 of it stipulated that "the project owner shall continue to perform all tasks entrusted to them within the framework of the zone development plan."

In addition to **commercial real estate** and **residential real estate**.

Commercial real estate: This includes land and buildings designated for establishing commercial shops and commercial centers.

Residential real estate: This includes land and buildings designated for establishing housing.

Chapter Two: The Importance of Investment Real Estate in Algeria

Investment real estate holds significant importance, as detailed below.

Section One: The Role of Real Estate in Encouraging Investment and Attracting Investors

Encouraging investment and attracting investors through the granting of real estate assets will lead to an expansion of their size and scope (3). However, this necessitates the legislator to apply flexibility in real estate ownership law, as the latter grants its owner the maximum possible privileges for acquiring ownership. Furthermore, the issue of providing real estate for investment and benefiting from private real estate ownership helps increase and diversify production, thereby contributing to economic stability and investor confidence. Simplifying the procedures for obtaining real estate (Rasul, 2004, p. 127) for project implementation encourages investors to invest by granting concessions through mutual agreement.

The Algerian legislator, under Order No. 08-2004 (Order 08/2004, Official Gazette 49, 2008), retained the idea of exploiting land or developmental real estate through a concession for a period of 33 years, renewable, not exceeding 99 years, compared to the previously defined period of 20 years renewable under Article 4 of Order 06-11 dated 30-08-2006, as amended and supplemented.

Section Two: Regulating the Real Estate Market

Investment is the primary driver for achieving development. It is essential to enter a market economy to achieve the state's endeavor to provide a suitable environment and climate for encouraging national investment and attracting foreign investment.



Algeria adopted a market economy under the Constitution of February 23, 1989, which enshrined freedom of trade and industry, encouraged individuals and companies to own production or service resources, and liberalized the market. The state ceased to be the economic agent or what is called the "intervening state" and became a "guardian state" (Miqalani, 2018, p. 211)

. Work began on establishing a real real estate market, which allowed for lifting the monopoly on real estate management, especially with the emergence of private economic operators as active elements within the anticipated real estate market, which would eliminate the problem of land scarcity.

This is what the Algerian legislator sought to enshrine through the establishment of the National Agency for Real Estate Brokerage and Regulation, whose main tasks include regulating, managing, and monitoring transactions related to real estate designated for investment.

Among the objectives that the Algerian legislator seeks to achieve is the establishment of regulatory and legal rules for the existence of a real estate market. This was embodied in the platform regulating the National Accord on the transitional phase, which stipulated the necessity of establishing a true real estate market free from all arbitrary and bureaucratic restrictions, regulating investment according to transparent rules that guarantee investor stability and protect the national economy, ensuring its entry into global market rules.

Section Three: Legal Protection of Investor Property as a Driver for Attracting Investment

Considering real estate as one of the most important assets upon which investment is based, the Algerian legislator intervened to

define the legal protection of investor real estate ownership, regardless of their nationality, whether national or foreign, to alleviate their fears regarding non-commercial risks (Naimi, 1999, p. 151).

This protection has been constitutionally enshrined by Article 52 of the amended 1996 Constitution (1989 Constitution), and also Article 28 of Law 90-25 dated 18-11-1990 concerning real estate orientation. It is therefore constitutionally guaranteed and cannot be removed except within the framework of the law in exchange for fair and equitable prior compensation, which is also confirmed by the Civil Code through several provisions, including Article 677 and Article 678. (Articles 677, 678, Civil Code).

Among the most significant risks facing foreign investments are non-commercial risks affecting ownership, where depriving the investor of their property is considered one of the most serious administrative actions. The state has the right to assert its economic sovereignty and its right to control economic activity through its right to expropriate private real estate for public utility. This can only be achieved in cases stipulated in the applicable legislation. Furthermore, temporary seizure of foreign investor property can only occur by following legal procedures and in exchange for fair compensation. The protection provided is subject to judicial oversight of the measures taken by public authorities to recover state property.

The state is obligated to protect investor funds, but laws and legislations can be amended without affecting the rights of foreigners, as these texts do not grant them acquired rights but rather place them in general regulatory positions that can be amended in the same way they were granted.



Investment real estate also holds significant importance in Algeria, playing a vital role in achieving economic and social development through:

- **Job creation:** Investment real estate contributes to creating direct and indirect job opportunities by employing workers in construction, maintenance, and investment operations.
- **Infrastructure improvement:** Investment real estate contributes to improving infrastructure by establishing roads, transportation, and public facilities.
- **Attracting foreign investments:** Investment real estate contributes to attracting foreign investments by providing profitable investment opportunities.

Conclusion:

Investment real estate is one of the fundamental pillars for achieving economic development and attracting local and foreign investments. The study has shown that the real estate sector in Algeria faces several challenges hindering its optimal utilization, including legal ambiguity, administrative bureaucracy, weak financing mechanisms, and a lack of transparency in the management of public real estate. Nevertheless, Algeria possesses immense real estate potential that can be effectively utilized to achieve balanced urban and economic development, especially in light of the trend towards economic diversification beyond the hydrocarbons sector.

Results:

1. The weak legal framework governing investment real estate and the multiplicity of supervisory bodies have led to overlapping competencies and hindered projects.

2. The absence of a unified national information bank for investment real estate makes it difficult to ascertain the available real estate stock for investment.
3. Administrative delays and lengthy periods for granting real estate frustrate investors and negatively impact the business climate.
4. Misuse of public real estate due to lack of follow-up and oversight after allocation, resulting in the freezing of many projects.
5. Lack of tax and financial incentives for investors in the real estate sector compared to neighboring countries.

Recommendations:

1. Reform and modernize the legal framework for investment real estate to ensure clarity of procedures and define responsibilities.
2. Establish an independent national agency for managing investment real estate, to be the sole reference for investors and operate according to principles of transparency and efficiency.
3. Digitize the real estate management system by creating a national electronic platform that allows for fair and transparent inventory and distribution of available real estate for investment.
4. Simplify administrative procedures and permit issuance, while reducing response times for investor requests.
5. Enhance post-allocation oversight of investment real estate utilization to ensure its implementation within specified deadlines and conditions, and withdraw unutilized real estate.
6. Introduce financial and tax incentives to attract investment in inland and southern regions with untapped potential.



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