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<b>Abstract</b> <p>Real estate ownership in Algeria is regulated through a complex institutional and legal framework that has undergone significant transformation since independence. The Algerian legislator relied, in organizing and identifying real estate ownership, on a set of institutions—some concerned with the general land survey process and others specialized in real estate registration. These institutions sought to create a general and comprehensive identity for various properties in Algeria through what is known as the Real Estate Register. The latter serves as the general reference that contains all details, information, and data related to each property. The legislator also relied on a set of instruments considered official documents with probative force, intended to protect the property rights contained therein. After independence, Algeria inherited vast real estate wealth with defined areas and boundaries. These properties were diverse in type and ownership: some classified as national property, others privately owned, some as waqf (endowment) property, and others as tribal lands, in addition to vacant lands (without owners). Despite this significant wealth, the main issue faced by the legislator at that time was that a large portion of this real estate wealth lacked proper documentation and clear, precise identification. This was due to the fact that real estate transactions during and after the colonial period were often informal and undocumented—sometimes even oral, relying solely</p>		
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## Introduction

on witnesses—which created real estate disorder and a large number of property disputes.

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Identifying Real Estate Ownership in Algerian Law: Institutional Evolution, Legal Mechanisms, and the Effectiveness of Land Surveying and Registration Systems

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In light of this situation, the legislator sought to regulate both public and private real estate holdings by cleansing them of various issues and disputes through a set of legal frameworks governing property in Algeria. The most notable of these was the introduction of Ordinance No. 75/74 of November 12, 1975, concerning the preparation of a general land survey and the establishment of the Real Estate Register. Through this measure, the legislator aimed to resolve real estate problems and achieve a clear and precise identification of properties.

Based on the above, the study raises the question: *To what extent are the mechanisms adopted by the legislator effective in identifying real estate ownership in Algeria?*

To study this topic, two main methodologies were used: the **descriptive method**, to define and describe the subject's components and characteristics; and the **analytical method**, to analyze the legal texts and issues. The **historical method** was also employed to trace the legal evolution of the institutions responsible for real estate identification.

To answer the research question, this study is divided into two sections:

- **First Chapter:** The institutions responsible for identifying real estate ownership in Algeria.
- **Second Chapter:** The tools used for identifying real estate ownership in Algeria.

### Chapter One: Institutions Responsible for Identifying Real Estate Ownership in Algeria

Real estate offices were established as mechanisms for identifying property ownership under Ordinance 75/74 on the general land survey and establishment of the Real Estate Register. Their role was to create and maintain the Real Estate Register and conduct real estate publicity procedures.

Meanwhile, the State, represented by the Ministry of Finance, was responsible for the general land survey through specialized agencies managing and overseeing this process. This continued until the 1989 Constitution, which transformed Algeria's political system from socialism to capitalism. Consequently, the State's role shifted from an interventionist to a regulatory one, leading the legislator to introduce several legal reforms consistent with the new system. Among these was the establishment of the **National Agency for Land Surveying (Agence Nationale du Cadastre)** to oversee the survey process.

Additionally, at the decentralized level, the legislator created a set of provincial directorates and municipal committees tasked with local surveying operations. These institutions continued conducting land surveys, property registration, and organizing real estate transactions until the issuance of **Executive Decree No. 21/393 of October 18, 2021**, which restructured the external services of the General Directorate of State Property. This decree amended the aforementioned institutions and their assigned missions.

Based on these developments, this section is divided into:

1. Institutions responsible for identifying real estate ownership **before** the enactment of Executive Decree No. 21/393.
2. Institutions responsible for identifying real estate ownership **after** its enactment.

#### First: Institutions Responsible for Identifying Real Estate Ownership Before Executive Decree 21/393

These institutions were divided into two categories:

- **Institutions for real estate registration**, responsible for maintaining property cards, conducting real estate publicity, and establishing the Real Estate Register (i.e., the real estate offices).
- **Institutions for land surveying**, represented by the National Agency for Land Surveying and its provincial and municipal branches.

#### 1. Real Estate Registration Institutions

The real estate registration institutions are represented by the **real estate offices**, established under Article 20 of Ordinance 75/74, which states:

“Real estate offices shall be established and managed by real estate conservators, who are responsible for maintaining the Real Estate Register and performing procedures related to real estate publicity.”

These offices are administrative bodies under the provincial directorate of State Property and Real Estate Affairs, operating under the supervision of the Minister of Finance.

### 1.1 Definition of the Real Estate Office

A real estate office is defined as a public service whose primary function is to preserve contracts and documents subject to registration, including those transferring, creating, or modifying property rights or other real rights, whether principal or accessory, after they are registered in the set of property cards.

### 1.2 Functions of the Real Estate Office

The main functions include:

- Preparing the **set of property cards**, which represent the identity of the property and contain detailed descriptions such as area, location, encumbrances, ownership rights, and owner names.
- Maintaining the **Real Estate Register**, which reflects the legal status of properties and records all transfers of real rights.
- Issuing **property certificates** to owners after verifying the data.
- Ensuring **the protection and preservation of property identity** by verifying documents and granting them authenticity through registration, which gives legal validity against third parties.

## 2. National Agency for Land Surveying

The National Agency for Land Surveying was established by **Executive Decree No. 89/234 of December 19, 1989**. It is the sole central body responsible for land surveys, assisted at the decentralized level by provincial directorates and municipal committees.

### 2.1 Definition

According to Article 1 of Decree 89/234:

“A public administrative institution with legal personality and financial autonomy is established under the name of the National Agency for Land Surveying (NALS).”

This means:

- It is a public administrative body subject to administrative law and judicial oversight.
- It has legal personality and financial independence.
- It enjoys limited functional independence while remaining bound by applicable laws and regulations.

### 2.2 Branches

The agency consists of:

- **Eight regional directorates** (Algiers, Oran, Constantine, Chlef, Setif, Ouargla, Béchar, and Biskra).

- **Provincial directorates** in each wilaya (province) to bring administration closer to citizens.
- **Municipal committees**, established under Article 9 of Ordinance 75/74, responsible for executing the land survey at the local level.

### 2.3 Functions

The agency's main functions include:

- Implementing the technical operations of the national land survey across Algerian territory.
- Conducting cadastral and topographical investigations.
- Preparing cadastral maps and related documents and ensuring their continual updating.
- Ensuring consistency between the land survey and the Real Estate Register.
- Archiving, consulting, and publishing cadastral documents and supervising private topographic offices.

#### Exceptional functions:

The Minister of Finance may assign the agency to conduct a **comprehensive inventory of State property**, both public and private, including:

- Developing modern systems for managing and regularly updating such inventories.
- Producing periodic statistical data reflecting the evolution of State-owned real estate assets.

### Second: Institutions After the Enactment of Executive Decree No. 21/393

In an effort to further regulate and streamline property management, the legislator introduced legal reforms, most notably **dissolving the National Agency for Land Surveying** under **Executive Decree No. 21/251 of June 6, 2021**, transferring its assets, rights, obligations, and employees to the Ministry of Finance.

The objective was to **merge** the agency's surveying functions with the **real estate registration functions**, given their interdependence, particularly in maintaining the Real Estate Register, conducting registrations, and issuing property certificates.

This merger was formalized by **Executive Decree No. 21/393**, which combined the provincial Land Survey Directorate and the Real Estate Office into a single entity named the **Directorate of Land Survey and Real Estate Registration**. This new directorate performs both surveying and registration tasks, while the municipal survey committees were integrated into the real estate offices.

#### 1. Functions of the Directorate of Land Survey and Real Estate Registration

This directorate, under the General Directorate of State Property, is entrusted with several tasks, including:

- Exercising hierarchical authority over subordinate real estate offices and ensuring compliance with the legislation governing land surveying and registration.
- Supervising and monitoring staff under its authority.
- Implementing and renewing the cadastral production program.

- Carrying out the procedures for preparing, depositing, and delivering cadastral documents, ensuring their updating and verifying their conformity with the Real Estate Register.
- Performing topographical works, conducting real estate investigations, determining property boundaries, drawing them, and dividing them.
- Organizing the implementation of operations related to the establishment of the Real Estate Register and its continuous updating, as well as organizing real estate registration operations.
- Following up on disputes related to land surveying and real estate preservation before the judiciary.
- Conducting real estate investigations and delivering ownership titles related thereto. It is also responsible for preserving contracts, maps, and all documents deposited with the real estate conservatorships and ensuring their integrity.
- Periodic analysis of the activity of real estate conservatorships, preparing summaries thereof, and communicating them to the hierarchical authorities.

## 2- Functions of the Real Estate Conservatorship after the Enactment of Executive Decree No. 21/393

The real estate conservatorship, conceptually, under this decree, does not differ from that established by Ordinance No. 75/74, as it was neither dissolved nor were its powers modified. Rather, its functions were expanded to include land survey operations. The legislator entrusted it with a set of powers as a land survey and real estate preservation administration at the municipal or inter-municipal level, which can be briefly summarized as follows:

- Utilizing cadastral documents received within the framework of the general land survey from the Provincial Directorate of Land Survey and Real Estate Preservation and ensuring their conformity with the Real Estate Register.
- Upon completion of the survey operations in the municipality, it establishes the Real Estate Register, numbers the surveyed properties, and enforces the procedure by issuing real estate certificates to persons whose ownership rights are duly recognized.
- Completing the real estate registration procedure required for contracts that meet the formal and substantive conditions stipulated by applicable laws and regulations.
- Annotating real estate certificates with the real rights and property charges established on the properties subject to cadastral numbering and all subsequent procedures.
- Preserving contracts, maps, and all documents related to general land survey operations, real estate registration, and numbering in the Real Estate Register.
- Communicating to the public the information contained in its archives.
- Collecting fees and charges due for services provided by the real estate conservatorship.
- Ensuring the keeping of revenue accounting in accordance with public accounting rules defined by applicable legislation and regulation.

## Second Chapter: Tools for Identifying Real Estate Ownership in Algeria

The Algerian legislator relied, in order to identify real estate ownership and cleanse property and real rights, on several systems, mainly the real estate registration system, the land survey process, and the real estate investigation

procedure. These systems aim to produce documents that serve as proof for the protection of all owners' rights, and such documents constitute the fundamental reference for establishing the Real Estate Register.

Completing the aforementioned systems or procedures results in the preparation of a set of documents called "tools for identifying real estate ownership." The survey process results in the preparation and issuance of the real estate certificate, while the registration system for unsurveyed lands produces official registered documents that have evidentiary value against third parties. As for the real estate investigation procedure, it applies to unsurveyed lands and results in the issuance of ownership titles.

Based on the foregoing, this section is divided into two parts:

**First:** Identifying real estate ownership through the real estate certificate in surveyed lands.

**Second:** Identifying real estate ownership through deeds in unsurveyed lands.

### **First: Identifying Real Estate Ownership through the Real Estate Certificate in Surveyed Lands**

The real estate certificate is considered the sole means of proving private real estate ownership in surveyed lands. It is prepared for owners after all legal, administrative, and technical procedures have been exhausted, and after verifying ownership and its origin. It serves as proof in the hands of beneficiaries against third parties.

To further clarify the meaning of the real estate certificate and the role it plays in purifying real estate ownership, we will first present its concept, then discuss its role in identifying real estate ownership.

#### **1- Concept of the Real Estate Certificate**

To clarify the concept of the real estate certificate, it must be defined and its legal nature determined, as follows:

##### **1-1 Definition of the Real Estate Certificate**

The Algerian legislator did not explicitly define the real estate certificate in various legislations, but it was referred to and its procedures mentioned in several texts. It first appeared in **Executive Decree No. 73/32** concerning the **Agrarian Revolution Law No. 71/73**, where Article 32 stated:

"Ownership certificates shall be replaced by real estate certificates upon the completion of the general land survey of the country's lands."

After the issuance of **Ordinance No. 75/74** on the preparation of the general land survey and the establishment of the Real Estate Register, and its implementing decree **No. 76/63**, the legislator completed the regulation of procedures for preparing the real estate certificate and clarified its content. It emphasized the necessity of delivering the real estate certificate to the property owner after the land survey process, and that the data in the set of property cards shall be transcribed in the certificate, as well as all rights encumbering the property.

In doctrine, the real estate certificate is defined as: "An administrative title that constitutes strong and reliable proof of real estate ownership, issued to the property owner after the survey process, conforming to the model set by ministerial decree."

It may also be defined as an administrative title delivered to property holders whose rights have been verified, after the completion of the general land survey and the establishment of the Real Estate Register, issued to the owner whose right has been confirmed upon the creation of a corresponding property card.

##### **1-2 Legal Nature of the Real Estate Certificate**

One opinion in doctrine limits the legal nature of the real estate certificate to that of an administrative contract, arguing that it is merely documentation of real estate rights—an administrative certificate. The conservator's role is only to verify that the certificate corresponds to the data in the property cards and Real Estate Register. However, this view is criticized since the real estate certificate differs fundamentally from an administrative contract: while

the purpose of the latter is to manage a public service, the purpose of the former is to prove real estate ownership and preserve rights.

Another doctrinal opinion considers the real estate certificate to be an **administrative decision**, as it is a legal act issued by the real estate conservator that produces legal effects similar to those resulting from administrative decisions. This view was also criticized, as the effects of administrative decisions are limited to annulment, amendment, or the creation of a legal status, whereas the real estate certificate serves to confirm an existing right.

Despite these criticisms, the second opinion—that the real estate certificate is an administrative decision—remains, in our view, the most accurate, considering the issuing authority, the issuance procedure, and the methods of appeal.

## 2- Role of the Real Estate Certificate in Identifying Real Estate Ownership

The functions of the real estate certificate in identifying property and purifying ownership can be summarized in two main roles:

- The role of the real estate certificate in **achieving real estate credit**.
- The role of the real estate certificate in **proving private real estate ownership**.

### 2-1 Role of the Real Estate Certificate in Achieving Real Estate Credit

The real estate certificate plays a regulatory role that promotes credit. The legislator introduced it to organize the real estate sector and regulate the real estate market following the chaos caused by the opening and liberalization of this market. It fosters trust between parties in property transactions and ensures transparency in dealings.

The existence of trust and credit in real estate transactions has significant economic implications, contributing to attracting investment, revitalizing the national economy, and implementing large-scale public-interest projects. The presence of mutual trust among parties also serves as an effective incentive for increasing real estate exchanges.

Moreover, the real estate certificate provides property owners with reassurance and peace of mind, as it is the strongest guarantee and best protection of their rights.

### 2-2 Role of the Real Estate Certificate in Proving Real Estate Ownership

The real estate certificate plays a fundamental role in proving ownership, particularly since the legislator adopted the **real property registration system** under Ordinance No. 75/74, which affirmed that the real estate certificate constitutes the ownership title for the owner of the surveyed property.

The rights recorded in the real estate certificate are considered **definitive rights**, since the certificate reflects the current legal status of properties. It is issued only after a field investigation conducted by the survey committees, which verify the accuracy of the data related to the properties under survey and determine them clearly and precisely under the supervision of a court judge.

Accordingly, it can be said that there is no disagreement regarding the evidentiary power of the real estate certificate and its value in proving property rights recorded therein. However, opinions differ on whether this evidentiary power is absolute or relative. Some jurists view it as **absolute**, since under the real property registration system, the certificate is the sole title of ownership, and the thorough verification process leaves little room for error.

Others, however, consider its evidentiary power **relative**, since the Algerian legislator sought to reduce the principle of absolute proof provided in the registration system and allowed individuals to challenge rights contained in the real estate certificate, as confirmed by **Article 16 of Executive Decree No. 76/63**.

### Second: Identifying Real Estate Ownership through Deeds in Unsurveyed Lands

The Algerian legislator sought to identify ownership in unsurveyed lands using a set of tools aimed at preserving property, protecting rights, and avoiding the chaos of informal contracts that prevailed between 1962 and 1971. These tools are more effective in purifying ownership, as they derive their validity from official documentation and registration. To clarify these tools and their role, we will present the concept of registered deeds, then their role in identifying property ownership.

## 1- Concept of Registered Deeds

When the term “deed” is associated with “registration,” it acquires stronger evidentiary value than unregistered deeds, placing its holder in a legally protected position with secured rights. To clarify this concept, we define it and present its types as follows:

### 1-1 Definition of Registered Deeds

There is no explicit doctrinal or legal definition of registered deeds, but they can be defined as all written instruments and documents used to prove a right or fact, which have been recorded and annotated in the real estate conservatorship.

Real estate registration (or publicity) is the technique by which real rights are made public. This involves keeping a register—called the Real Estate Register—by a competent authority to record legal transactions relating to properties or to register all real rights in a set of property cards.

Thus, registering deeds related to property or real rights establishes a legal identity for such property or right, reflecting its current condition and all transactions concerning it.

### 1-2 Types of Registered Deeds

The registered deeds adopted by the legislator for identifying real estate ownership are classified into three main types:

- **Official contracts**
- **Judicial rulings**
- **Documents resulting from real estate investigation procedures**

#### 1-2-1 Official Contracts

Official contracts are written instruments that serve as conclusive proof. Under Algerian law, they include three types: notarized contracts, administrative contracts, and judicial contracts. Article 324 of the Civil Code defines the official contract as:

“An official contract is one in which a public officer, notary, or any person authorized to perform a public service records what took place before him or what he received from the concerned parties, in accordance with legal forms and within the limits of his authority and competence.”

From this definition, it is understood that the official nature of a contract derives exclusively from certain legally authorized persons who formalize legal transactions and agreements in a prescribed form.

#### 1-2-2 Judicial Rulings

Judicial rulings and decisions that transfer ownership of property or real rights, or that modify, rescind, or annul them, are considered official deeds subject to registration and real estate publicity.

Such rulings must be final, having the force of res judicata, with all ordinary means of appeal exhausted and bearing the enforcement formula.

The most important judicial rulings serving to regulate and purify ownership in Algeria include:

- **Judgments ordering the partition of jointly owned property**, resulting from judicial partition in case of disagreement among co-owners.
- **Judgments confirming auction sales**, issued after completing the foreclosure procedures; such rulings transfer ownership to the successful bidder once registered.
- **Judgments confirming promises of sale**, issued when one party breaches a real estate sale promise, and the other party requests enforcement, provided that all contractual requirements, especially form, are met—the judgment then replaces the contract.

### 1-2-3 Documents Resulting from the Real Estate Investigation Procedure

The legislator introduced the **real estate investigation system** to purify private ownership and overcome the disorder and disputes arising from the possession regularized by notoriety deeds.

This system was established by **Law No. 07/02 of February 27, 2007**, establishing a procedure for recognizing ownership rights and issuing ownership titles through real estate investigation. The aim of this procedure is to determine the true legal status of the property subject to investigation.

The real estate investigation is defined as a **legal and field procedure** carried out by a public official known as the real estate conservator, who moves to the location of the property in question, inspects it in the presence of the applicant, investigates and verifies all facts, and records data related to the property's physical possession, listing properties whose owners lack ownership titles.

After the investigation, if no objections are raised to the cadastral numbering, the conservator registers the numbering order and issues the ownership title to the applicant. This title constitutes an **official registered document** that determines the property's legal status.

### 2- Role of Registered Deeds in Identifying Real Estate Ownership

Registered deeds play an effective role in proving and protecting real estate and transactions conducted thereon. They are among the strongest means of proof in real estate matters and play a crucial role in purifying ownership and identifying property.

To elaborate on these two roles, we will discuss each one separately as follows:

**2-1- The Role of Registered Deeds in Proving and Protecting Property**  
 Official contracts, judicial rulings, and property investigation documents possess absolute probative force, as they have full evidential value between the contracting parties and toward third parties. These deeds derive their probative strength from the principle of formality and the registration procedure. This was confirmed by the legislator in Article 324 bis 05, which states: *"What is stated in an official contract is considered evidence unless its forgery is proven, and it is enforceable throughout the entire national territory."*

From this article, we deduce that the legislator established the principle of formality and granted it probative force that surpasses all other forms.

The legislator also granted registration in the land registry the probative effect of acknowledging the existence of the right, known as the *constitutive effect* of the right. This means that ownership rights or any real rights in rem cannot be invoked unless registered at the land registry.

Accordingly, any owner holding official registered deeds is considered to be in a legally protected position against any interference or infringement of ownership, and no third party may contest such deeds unless they provide proof of forgery.

## 2-2- The Role of Registered Deeds in the Purification and Regulation of Property

Registered deeds play a highly significant role in regulating and purifying property, as all real estate transactions take a formal shape and are subject to registration. This registration process has a *purifying effect*, meaning that ownership of real estate is transferred to the new owner free of any unregistered encumbrances affecting the property. In practice, purification is one of the essential tasks of the land registrar, who investigates the identity and capacity of the parties involved, as well as the authenticity of the deeds and documents subject to registration. The registration process establishes the right holder in a stable position, as their right is unaffected by other transactions — precedence is given to the earliest registration. Consequently, registered deeds and official contracts reinforce the concept of real estate credit, establish stability in real estate transactions, and regulate the real estate market.

### Conclusion:

From our study of this topic, we conclude that the Algerian legislator has been keen to organize real estate and determine its identity through a set of effective mechanisms. It established institutions to verify property data, create a general land map, identify owners and right-holders, and investigate the origins of real estate ownership to eliminate any doubt of error. These institutions have played a vital role in the general documentation of land in Algeria through the maintenance of property records and the establishment of the land registry. In addition to the above mechanisms, the legislator has established three instruments to prove property ownership. These instruments help preserve and protect rights as official documents that accurately record the legal status of real estate and the real rights established thereon, as well as all transactions and dealings involving real estate.

Despite the satisfactory results achieved by the legislator through these regulatory and control mechanisms in the purification of real estate ownership, they are still not sufficient to completely eliminate real estate disorder and related ownership or transaction issues. Several shortcomings can be summarized as follows:

- Despite the legal provision approving the actual merger of land registration and land survey institutions into one directorate, in practice, this merger has not been fully realized, as some survey directorates remain independent from the registration directorates.
- The absence of absolute probative force for evidentiary documents, as numerous property disputes still occur in which the authenticity of submitted documents is contested.
- The incomplete implementation of land surveying operations — despite 50 years having passed since the issuance of Ordinance 75/74 on general land surveying and the establishment of the land registry, a large part of Algerian property has still not been surveyed.
- Despite claims of completing the digitization of property records and the land registry, deficiencies persist that hinder citizens' electronic access to their property documents and to the extraction of information and deeds they require.

### Methodology

This research employed a multi-method qualitative approach combining descriptive, analytical, historical, and comparative elements...

### Author Contributions

Hedad Badia: Conceptualization, legal text analysis, drafting introduction and institutional history.

Hamdouni Ali: Analysis of reforms, writing on legal mechanisms, methodology structuring, revisions.

Both authors approved the final manuscript.

### Ethical Considerations

The study uses publicly accessible legal and governmental documents, involves no human subjects, and follows academic integrity standards.

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**Conflict of Interest**

The authors declare no conflict of interest.

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