

## Legal Study of Revocation of Official Documents in Iran

### Abstract

The issue of registering ownership documents<sup>1</sup> has a history as old as human civilization and the creation of human communities. Ever since the human population started to increase and trade began, the need to register transactions became apparent, and the need for it caused civilized man to try different ways. The benefits of registering ownership documents are not limited to their legal effects, including the formality, enforceability, and validation of regulatory documents. Moreover, its material, spiritual, psychological, economic, judicial, and social effects are also significant and noteworthy. Accordingly, the principle is based on these documents' validity, survival, and inviolability. Still, accepting this fact and due to the official nature of such documents, the general public, government officials, and court judges should respect it. The result is that by observing the principle of the validity of official documents and the unwavering nature of ownership documents, in particular circumstances and cases that require clarification, the possibility of revoking and amending the ownership document is provided by observing legal formalities. Depending on the case, various authorities have the authority to deal with the matter, which needs to be listed, examined, and explained.

**Keywords:** *Registration of Documents, Ownership Document, Revocation of Official Document, Amendment of Official Document.*

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### Introduction

The process of setting up contracts and drawing up ownership documents for people to validate their ownership and stabilize them, considering the diversity and multiplicity of laws and regulations and the complexity of legal issues, and considering the common traditional methods and the direct involvement of the human factor from the beginning to the end of the work is not free from mistake. Despite all the effects and importance of registering the property and setting up the ownership document and their validity, which is right, experience has shown that sometimes, due to the breadth and diversity of the area of acceptance and petition for property registration, mistakes are made during the process. This, in some way, leads to the registration of the property and the issuance of the ownership document. Sometimes the registration of the ownership document is done without complying with legal regulations. Sometimes, after the ownership document issuance, the property's boundaries do not conform to the ownership document. The difference between the boundaries of the property and the adjacent properties, encroachment on the adjacent license plate, interference of the properties with each other, adverse addition or subtraction of area in the property, withdrawal, etc. occur.

In some cases, by abusing the laws, individuals register the waste properties, public properties, and endowments properties for themselves. Also, sometimes the necessity of time and social interests requires revocation, amendment, and change in the contents of the registered ownership document. These, which happen a lot, require a way to amend or revoke the

registered ownership document, which is wrong or against the law due to its social benefits and effects (Asgari, 2018: 42).

The importance of revoking and amending the official document of ownership in Iranian law prompted the author to write her M.Sc. thesis with the title of revocation and amendment the official document of ownership to the best of his ability and using authentic legal books in this field. It is hoped that it will be accepted by professors, students, staff of registry offices, and all interested parties. Consolidation of ownership, which is one of the main goals of registration laws and regulations, is a sign of the power of the ruling system because the disruption of individuals' ownership rights destabilizes and disrupts society's security. According to Article 22 of the Registration Law: As soon as a property is registered in the Real Estate Registry Office following the law, the government only recognizes the person in which the property is registered in his name or the person to whom the said property was transferred and this transfer was also registered in the Real Estate Registry Office or that the property has inherited from the official owner to him. Article 24 of the same law states: After the expiration of the objection period, the claim that someone's rights will not be accepted the right deprivation during the registration process, neither as a price nor in any other way, whether it is legal or criminal. Also, in Article 70 of the Registration Law, we read: A document registered according to the laws is official, and all the contents and signatures contained in it will be valid unless the forgery of that document is proven. Articles 71 and 72 of the Registration Law also discuss the validity of registered documents and properties; therefore, the most important

purpose of registering rights is to validate the ownership and will of the people (Naziri, 2021: 32).

### **First topic: Revocation of the official document in the endowment lands**

The single article of the law on the revocation of documents of sale of crown properties, water, and endowment lands approved on 1993-2-14 says: From the date of approval of this law, all general endowments that were sold without Sharia permission or were acquired in such a way return to their endowment and the ownership documents issued is invalid.

Article 2 of the executive regulations of the law mentioned above, approved on 1995-4-23, says: Awqaf and charity offices and endowment trustees are obliged to take into account the public endowments that have been sold or have become the property of individuals, according to the registration records and send with documents and reasons to the Awqaf and Charitable Affairs Organization. The Awqaf and Charitable Affairs Organization refers the matter to a commission composed of expert jurists, which is formed under the supervision of the representative of the Guardianship of the Islamic Jurist in the said organization. The said commission announces its opinion on the Shari'a license to sell or convert crown properties. (Tafakorian, 2014: 47). The transaction will be approved if the conversion and sale of the endowment crown properties were made with a Sharia license, according to the commission. Otherwise, the opinion of the representative of the Guardianship of the Islamic Jurist and the head of the Awqaf and Charitable Affairs Organization is based on the invalidity of the sale or conversion of the endowment document with the Real Estate Registry Organization so that the registry offices take action regarding the revocation of the document in the registration records and related registry offices for registration and issuance of a new document in the name of endowment (Naziri, 2021: 54).

Previously, another law with the same name was approved as a single article on 1984-4-17. The council approved the related regulation of Ministers on 1984-11-28, which sometimes differed from the current law and regulation. However, it is stipulated in Article 17 of the new law regulation that from the date of approval of this regulation, all the approvals of the governing board that is contrary to this regulation are canceled. Therefore, the new rules will be applied in case of an adverse relationship between the previous regulation and this regulation. It is necessary to explain that the previous rules and regulations regarding endowments were absolute, but the provisions of the new law approved on 1993-2-14 and its regulations only refer to general endowments. Therefore, according to note 6 of the single article of the new law, the previous contradictory provisions are canceled. Executive regulations of the Law on Revocation of Documents and Sale

of Crown properties, Water and Endowment Lands (the subject of approvals No. 1146/T12784/H dated 1995-4-26 and 44089/T15320/H, dated 1996-9-2) according to The council of ministers' approval on 2001-10-24 have been amended as follows:

According to the registration records, the Awqaf and charity affairs offices and endowment trustees are obliged to list the public endowments that have been sold or become the property of individuals and send them to the Awqaf and charity affairs organization along with the documents and evidence. The Awqaf and charity affairs organization, while notifying the possessor or possessors of these endowments or other interested parties, refers the matter to a commission composed of three expert jurists, which is formed by the selection and supervision of the representative of the Guardianship of the Islamic Jurists in the organization above. The said commission expresses its opinion about the Shari'a license to sell or convert crown properties, according to the documents provided by the Awqaf and charity affairs office, the relevant trustee, and the interested parties in the endowment. According to the commission, the transaction would be confirmed if the conversion and sale of the endowment crown properties were made with Sharia permission. If not, the opinion of the representative of the Guardianship of the Islamic Jurists and head of the Awqaf and charity affairs organization is based on the revocation of the sale document or the simultaneous conversion of the endowment to the Real Estate Registration Organization and the possessor or possessors or the interested persons are notified in the endowment. Based on this decision, the registry offices will revoke the document in the registration records and related offices and issue a new document called an endowment. This decision will be appealed to competent judicial authorities (Khoshnoudzadeh, 2018: 68).

### **Fourth speech: The practical method of revoking documents according to the law**

After receiving the document revocation petition letter from the competent authorities along with the definitive and acceptable documents, such as the decision of the Commission, Article 56 of the Law on Protection and Exploitation of the Country's Forests and Pastures, the Law on the Authority for Identifying Wastelands and Revoking its Documents, Single Article of the Law on Revoking Crown properties' Sales, Water and endowment lands Documents, the law on revoking the ownership of urban wastelands and its construction quality, etc., the head of the registrar orders the registration of the petition in the indicator office. It refers the matter to the real estate office for review and action (Rezaei, 2018: 90).

After registering the petition in the indicator office, the office manager sends it to the archive and its appendices to attach to the registration file. In the archive, the relevant file is extracted

from its row and sent to the real estate office together with the records. After reviewing the records and considering the declaration documents and matching the specifications contained in them with the contents of the registration file, and after making sure that there are no problems, the revocation of the original ownership document is entered in the remarks column of the related real state office. The draft of the original ownership document with the letter number or the executory transfer decree or document is explained, then provide the draft the new ownership document. In this draft, in addition to specifying the full details of the new owner and the limits and specifications of the property, the process of the registration case and the method of revocation of the original ownership document, and the number and date of the revocation document should be written in detail. After the certificate of the office, the matters stated in the real estate office and the draft of the original ownership document, and also the draft of the new ownership document prepared with the same registration of the original page should be signed by the relevant official. Then, suppose the original ownership document is presented in any way. In that case, it will be revoked and attached to the registration file. However, in any case, after completing the above formalities, it will prepare a circular addressed to the notary offices regarding the revocation of the original ownership document. In this circular, the full details of the property and the owner, the document number and date of the revocation of the original ownership document, and the name and details of the new owner, explaining the revocation of the original ownership document, are specified, and the relevant official signs the circular, and after inserting the number on it, the indicator office sends it to the subordinate notary offices. Then the file is sent to accounting to pay the price of the ownership document book. The officer of the real estate office writes and drafts the ownership document. The document is signed by the relevant official and sent the file to the archive to deliver the document to the beneficiary. The document is first threaded and sealed in the archive and then registered in the document submission office. Then, after authentication from the applicant, in exchange for receiving a receipt from him in the document submission office, the considerations of the draft of the ownership document are submitted to him, and the file is recorded in its row in the archive. It is obvious that if the issuance of a new ownership document is based on an executive transfer document, in addition to the petition of the beneficiary, it is necessary to submit the minutes of the meeting of the delivery of the property, which the executive officer prepares, or to acknowledge the delivery of the property from the client's area along with the executive transfer document (Mehrasa, 2021: 71).

### **Third speech: Revocation of the ownership document by court order**

The authority and independence of the courts are such that it is possible to ask those authorities to revoke a document, even if it is an official document. One of the most complicated issues in the discussion of revocation of documents, both official and ordinary, financial and non-financial, is this type of dispute. The revocation of a document can be both financial and non-financial. The financial or non-financial nature of a lawsuit to revoke a document depends on the subject of that document. In this section, the cases of revocation of the ownership document by court order will be examined:

### **First speech: Registering the ownership document against the law**

According to Article 22 of the Registration Law, documents can be revoked if it is proven that a property has not been registered in the real estate office according to the law, which of course only refers to formalities according to the law. This conclusion, according to the note of Article 5 of the legal bill regarding registration errors and conflicting ownership documents, which stipulates that the registration process has been carried out according to the law and regulations, will determine and rule the annulment of another document, which can be a conflicting document or a delayed document.. Some have extended it to substantive matters as well. Jurisprudence confirms this issue; the General Board of the Supreme Court, in its decision No. 1653 dated 1961-8-1, commented as follows: Article 22 of the Registration Law applies to a property that has been registered in the Real Estate Office following the law, and also, a transfer that is done following the law and in the case where the claim is that the sale of the property is not legal, the claim can be heard, because legally, a sale that has not taken place properly does not result in effects such as the buyer's ownership of the seller and the payment of the price to the seller (Zahouri Manesh, 2020: 89).

### **Second speech: Adverse ownership documents**

Some professors have considered the adverse ownership document to be an ownership document that has been registered later than the initial registration in the real estate register with respect to the whole or some of the other ownership document that was previously issued, and until the final ruling confirms the correctness of its issuance, it has the ruling of an adverse ownership document, and it has specific legal effects. Some authors of registration rights believe that if the registration date of two ownership documents is different, the one whose date is the late-issued is the adverse ownership document. (Ebrahimzadeh, 2018: 58). If the registration date of two documents is the same day, the ownership document whose number is higher means the late-issued registration will

be the adverse document. Some professors of registration law have said that it is a document registered in the real estate office once in the name of a person, whether it is all of it or part of it, whether it is the boundaries or easement rights. Then it is registered in the real estate office again under another name. The ownership document of the late-issued registration is called the adverse ownership document (Rezvan Khah Golsefidi and Poursalim, 2016: 778).

### **Third speech: Review of former amended articles 147 and 148**

The Real Estate and Documents Registration Law, approved in 1931, which is currently the standard of practice, included 142 articles at the beginning of its approval. Due to the shortcomings that were felt in this law, some articles were amended, and some articles were added to this law. (Alinejadi, 2015: 79)

Among these changes was that on January 8, 1973, articles 142 to 157 under the title of Additional Articles were added to this law. Regarding the addition of Articles 147 and 148, it can be said that, in general, even though real estate seizures have always been subject to certain laws and regulations in different eras, some members of society have not followed the law to advance their goals. Without official purchase or obtaining the owners' consent, they have taken over their properties. Since such acts against the custom and the law were many in the society, the legislator was forced to approve articles 147 and 148 in 1972, and add to the collection of the la Real Estate Registration Law approved in 1931 (Pourbadakhshan and Darwishzadeh, 2011: 24).

According to articles 147 and 148 of the said law, duties were determined in the following cases; properties that have been registered in whole or in part in a common application and before the implementation of this law in certain parts of it without an official transfer or an official lease were built by some people. Therefore the continuation of the registration process was faced with problems. Also, to resolve the existing dispute between the owners of the lands located in the boundaries of the cities of Durood, Faridan, Shahrekord, and Kerman and the people who built buildings and occupied the said lands until March 21, 1971, and the owners of the land were not ready to acknowledge their site. The issue is raised in the board of governors, and the said board would consider the case and make the appropriate decision. In addition, the term of referring work to the board of governors, according to Article 147 of the aforementioned law, was only up to 3 years from the date of implementation of this law. Then on June 30, 1975, a law under the title of Amendment to the Real Estate Registration Law was approved in 5 articles; according to Article 4 of this law, the aforementioned provisions were extended to the cities of Shahi and Marvdasht, Shiraz, and

therefore qualified people in the above cities could also use the provisions of Articles 147 and 148 (Bahrami, 2014: 53).

On November 13, 1978, Article 148 was added repeatedly under the title Law of Addition of Article 148 to the Law of Amendment of the Real Estate Registration Law approved in 1972; according to this article, firstly, more powers were delegated to the boards mentioned in the articles mentioned above. Secondly, the deadline for submitting the petition was extended for another 3 years. Thirdly, the Ministry of Justice was given the authority to implement the aforementioned regulations in other parts of the country that have similar conditions to the cities mentioned above within 3 years from the date of approval of this law to the Parliamentary Justice Commissions (Bahrami, 2014: 79).

### **Fourth speech: Forged documents**

Article 754 of the Islamic Penal Code (Deterrent Penalties and Punishments) 2013 defines forgery: Forgery is the making or writing of a document or the making of a seal or the signature of an official or unofficial person, scratching or scraping or removing a pen or adding or erasing or blacking out or forwarding or delaying the date of the document compared to the real date or pasting one writing to another or using another seal without the owner's permission and the like with the intention of fraud (Khoshnoudzadeh, 2018: 64). Note: This definition is an illustrative definition, not a comprehensive legal definition. Jurists consider three elements necessary for forgery: 1- The element of the heart of truth, 2- The element of harm, and 3- The element of fraud. The transformation and heart of truth are either in a material form, which is called a material forgery or in a spiritual form, which is called spiritual forgery. Based on this, legal scholars also defined forgery as a fraudulent definition of the reality in writing by the means determined by the law in a way that is the source of loss and damage or fraudulently heart a fact or other matters in a document or writing or other things in one of the ways mentioned in the law. The legal sources of the crime of forging official documents are found in Articles 100, and 103 of the Registration Law approved in 1931. Seven cases of forgery of official documents are stated in Article 100, which are as follows:

1. The registrar or notary registers forged documents.
2. The registrar or notary registers the document without the presence of the owner of the document.
3. The registrar or notary registers the document in the name of non-participants.
4. The registrar or notary registers the date of the document earlier or later.
5. The registrar or notary disappears all or part of the registration book and invalidates it.

6. The registrar or notary registers the documents with the knowledge of non-ownership.
7. The registrar or notary registers a document that does not have a certificate (Naziri, 2021: 84).

Article 103 of the Registration Law is about the deliberate giving of untrue certifications by the registrar or notary registers, which is considered a forgery of an official document. After dealing with the forgery claim and issuing a ruling on the nature of the claim, the court must determine the duty of the document that is claimed to be forged in such a way that the court is obliged to issue a ruling on the nature of the claim regarding the document that is the subject of the claim of forgery. If he does not recognize it as forged, he will issue an order to hand it over to the holder of the document, and if he finds it to be forged, then the obligation is to destroy the entire document, or revoke the forged part on the document, will determine the words which must be erased or changed. The implementation of the court's decision in this regard depends on the finality of the court's verdict on the nature of the lawsuit and the expiry of the appeal period or the execution of the verdict in cases that can be appealed. If the presence of documents and writings related to the forgery case in the court is not necessary, the court orders the return of the documents and writings to their owners (Article 221 of the Civil Procedure Law) (Mehrasa, 2021: 61). Therefore, there are two situations in the claim of forgery regarding the document: A: In the first case, the court does not recognize the document as forged, and at the same time orders its return to its owner. B: The court recognizes the document as forged, and in this case, it orders the erasure or revocation of all or part of the document that is found to be forged (Asgari, 2018: 89).

#### **Fifth speech: patent document**

In different legal systems, registering a patent and issuing a patent certificate does not mean its complete and absolute validity. After registration, it is possible to object to the validity of a patent certificate. Cases such as lack of patentability, insufficient disclosure, wrongful acquisition of a certificate, and improper expansion of the scope of protection can be grounds for revocation (Mashhadizadeh, 2017: 64).

In Iranian law, Article 18 of the Law on Patents, Industrial Designs and Trademarks (approved in 2007) allows any beneficiary to ask the court to revoke the certificate by proving the existence of one of the reasons for the revocation. Article 37 of the Law on Registration of Trademarks and Patents, approved in 1931, also provided such a possibility. The objection must be documented to attack the certificate's validity. Regardless of some cases of dispute in the legal systems, reasons such as lack of patentability, insufficient disclosure, and wrongful acquisition of a certificate will be grounds for revocation. Revocation of all or part of the patent

nullifies the inventor's rights to it from the beginning and affects the rights of third parties who were somehow connected with the patent right. According to Article 103 of the Executive Regulations of Patents, Industrial Designs and Trademarks Law approved on 2009-1-20, any beneficiary can petition the revocation of industrial design registration from the competent court stipulated in Article 59 of Law on Patents, Industrial Designs, and Trademarks. According to this article, dealing with disputes arising from implementing the Law on Patents, Industrial Designs, and Trademarks and its Executive Regulations is under the jurisdiction of a branch or specific branches of the Tehran Public Courts (Zahouri Manesh, 2020: 91).

#### **Third topic: Revocation of the ownership document by order of the registry office**

Another important authority for dealing with the petition for revocation of the ownership document is the immovable property registry office. The legislator has mentioned the competence of the registry office in many articles as the competent authority to deal with and issue the order to revoke the ownership document. In the current topic, the causes and methods of revocation of ownership documents, which the registry office is the authority to review and issue revocation orders, have been examined as follows:

#### **First speech: Separation of properties and issuance of new ownership document**

Separation in the word means to isolate something from another, to open, to release. Separation in registration rights means separating parts of a property in such a way that each of those parts is considered an independent property. For example, the owner of an old building demolishes it and builds, for example, 50 apartments on the land of that building. Because each apartment is built to be owned by a certain person or persons so that a family can live in it independently, therefore, it is necessary that even though the site is the same and all the apartments are built on that land, the limits and specifications of each apartment, which is now considered an independent property, should be determined so that the private parts are determined from the joint parts (Shahri, 2015: 57). With the petition of the owner from the registry office, this office demands the relevant documents from the owner, and after examining them, the representatives of the registry office are present on the place, and by preparing the minutes of the separation, their apartments and warehouses are separated, and the joint areas are also determined. After preparing these minutes and based on them and other documents, the owner can get a separate ownership document for all those apartments in his name. In separation, it is not a condition that there are many owners; if the owner is one person, he can petition

separation. What is important is that the property is present and can be separated.

### **Second speech: Partition of properties and revocation of joint ownership document**

The partition means to divide something, to take out and clean something. The concept of partition from a legal point of view is a claim by a partner of a joint property against another partner in order to divide the said property in case of disagreement on the separation. The partition is the opposite of joint, meaning dividing the common immovable property between two or more partners, according to their share, and issuing a separate ownership document for each of them. In the case of partition, the state of the joint is lost, and the joint property is divided based on the shares of each partner. In contrast, in the case of separation, the state of the joint is not lost, but a single owner or several owners may divide their property and receive the separation document but the state of the joint remains. In partition, since the issue of differentiation and recognition of rights is raised, then this recognition can be judicially controlled, but in the case of separation, due to the lack of such clarity, the proceedings are of an administrative type, and the act of separation cannot be judicially reviewed; therefore, partition means dividing the joint share. The condition for partition is the existence of at least two owners for one property (Rezvan Khah Golsefidi and Poursalim; 2016: 57).

The process of partition starts with the petition of each owner or joint owner. The petition can be made in ordinary papers or petition forms; it is important to mention the details of the applicant and other partners and their address and the property details with the license plate number and the relevant section and registration area, and the subject of the petition. Along with the petition, the documents are also attached. In the beginning, the petition for the partition will be referred to the registered representative to process it. If the registration process has been completed and the act of partition is also under the jurisdiction of the registry office, no adverse ownership document has been issued for it. The names of the joint owners are in accordance with the petition, and the time for the inspection of the place will be determined and notified to the applicant and all partners. The property map subject to partition is drawn and signed by the representative, surveyor, and partners at the site. Also, the minutes containing the boundaries, area, and specifications of each separate part are prepared and signed as described above. According to Article 154 of the Registration Law, the registry office and the courts must send the partition map to the local municipality to announce its opinion within two months. If the municipality's decision is not announced within this period, the registry office can continue the partition operation based on the drawn map.

The head of the office announces his decision within the framework of the regulations regarding the rejection or acceptance of the petition and the partition method. The decision of the head of the registry office is communicated to all the partners by attaching a copy of the minutes and a photocopy of the partition map. This decision can be appealed in the general court within 10 days from the notification date, and the decision of the general court can be appealed in the court of appeal according to the civil procedure (Ebrahimzadeh and Norouzzadeh, 2018: 73).

### **Third speech: Consolidation**

Consolidation is an Arabic phrase that means gathering together. Clause 313 of the collection of registration circulars issued under number 5354/3 dated 1974-12-8 states the conditions for performing another registration operation under the consolidation title. However, in the law of registration of documents and real estate and in its regulations, which were approved long before the approval of this circular, the name of consolidation is not mentioned, and it has not been used as a legal and registration term in legal sources. This term is used in cases where two or more properties become one property. It means that the boundaries between them disappear, just like an owner becomes the adjacent property owner. In this case, there will be a change in his ownership boundaries, and it is necessary that all ownership documents that belong to the new owner be submitted to the registry office so that this office, upon further checking, will issue and submit an ownership document in his name. Therefore, it is true that the creation of complications in the property (the loss of boundaries) caused the consolidation of the boundaries. In this case, the issue is related to the properties. Still, it should be known that the issue of the properties is exactly the issue of the registration of the properties. With the property registration in the real estate office, where the boundaries and easement rights are also registered, the ownership document is issued in the owner's name and submitted to him. From now on, a change in the boundaries of the property is considered a change in the ownership document. Therefore, consolidation of boundaries, which means consolidation of registered property boundaries with other registered properties, is actually a consolidation of documents (Alinejadi, 2015: 57).

The applicant must submit his application along with the ownership documents related to the registry office of the place of submission. According to the order of the head of the office, after being registered in the indicator's office, the applicant's petition is referred to the archive and one of the registration representatives, respectively, to be attached to the file and to take necessary action. (Tafakorian, 2014: 67). After the applicant's petition is registered in the indicator office, it is sent to the archive to be attached to the file. The relevant file is

removed from its row and sent to the relevant representative along with the petition for necessary action. The registration representative examines the applicant's registration file and ownership documents from every aspect, especially the bail and arrest. If there are no problems for consolidation, he submits his opinion to the head of the office in a report. The head of the office examines the case while deciding on the day of the site inspection and informs the applicant, then sends the file to the archive for recording until the appointed day, on the day of the applicant's visit, the file is sent to the head of the office, and he appoints a representative and a surveyor to go to the place and carry out the consolidation. It is obvious that if the properties to be consolidated are outside the radius of 30 km, the applicant is obliged to deposit the wage of the representative and the surveyor to the registration deposit account at the relevant bank Meli as mentioned in the previous discussions. Then the representative and the surveyor, accompanied by the applicant, went to the property's location. After settling in the place, the representative compared the boundaries of the desired properties with the ownership documents and the neighbors. The surveyor took the boundaries of the consolidated properties. Then the representative prepares the minutes according to the sketch map of the surveyor. After the signature of himself and the surveyor, he gets the signature of the relevant owner or owners and prepares a draft of the new ownership document, and submits the situation to the head of the office in a report and informs the applicant of the time of the next visit (Mehrasa, 2021: 69).

#### **Fourth speech: Revocation of adverse ownership documents in the registry office**

In the previous pages, it was stated about the adverse ownership documents. Usually, the registry office is the first registration authority that is informed of the existence of the adverse document because the real estate office book is in the registry office. Every transfer that is made about the property will be reflected in this book, and in this case, the existence of adverse and two adverse documents will be revealed. The first duty of this office is to notify the matter to notary offices of the relevant area and, at the same time, to notify the matter in the report's appendix to the board of governors. The second duty of the registry office is when, after the investigation of the board of governors or the supreme registration council, the occurrence of an adverse is determined and reported to the registry office. At this time, the mentioned office is obliged to notify the owner of the adverse ownership document in writing and inform him that he can file a lawsuit within 2 months from the date of notification (Pourbadakhshan and Darwishzadeh, 2011: 73).

The third duty of the registry office is when it has to revoke one of the two documents, and this can have two cases: one is that the holder of the adverse ownership document does not appeal to the court. In this case, if the holder of the initial ownership document receives a court certificate stating that the holder of the ownership document has not filed a lawsuit within two months and submits it to the registry office after the expiry of the two months mentioned. The mentioned office is obliged to mention the revocation of the adverse ownership document in the remarks column of the real estate register and to inform the holder of the revoked document and also the official notary offices. The second case is when the holder of the adverse document appeals to the court within the two-month deadline, and the court declares one of the two documents revoked after the hearing. In this case, once the court decision is finalized, the registry office is obliged to write the contents of the court decision in brief, as in the previous case, in the remarks column of the real estate register, and mention the revocation of the ownership document, and inform the holder of the revoked document and notary publics (Bahrami, 2014: 47).

#### **Fifth speech: Duplicate ownership document and issuance of a new document**

In Article 120 of the Regulations of the Real Estate Registration Law approved in 1938 (amended on 2002-1-28), the conditions for issuing a duplicate ownership document, including the duties of the applicant and real estate registry offices, are detailed, but due to its lack of connection with the scope of duties of notary public offices, dealing with it in this study is avoided, and we will only explain the duties of notary offices in dealing with duplicate ownership documents as much as possible, especially with the approval of the law to facilitate the arrangement of documents in notary offices approved on 2006-8-15. According to note 1 of the amended Article 120: (The registry office is obliged to announce the status to its offices when issuing the duplicate ownership document and remind them that whenever they want to prepare any transaction document regarding the license plate of the duplicate ownership document) regardless of whether it is based on the original or a duplicate) inquire about the property registration process and then if there are no obstacles, prepare the document and register the transaction. Each office must have a book to register the license plate number of such properties, which they refer to when preparing the documents. If the transaction is about properties for which a duplicate ownership document has been issued, the property's registration process must be inquired about beforehand. If there is no obstacle, prepare the document, and in places where computers are used, there is no need to declare the matter to notary offices. However, according to the duplicate ownership

document, when conducting the transaction, the offices must inquire about the registration process and then proceed to adjust and register the transaction if there are no obstacles. Violation of the above order requires a 3rd-degree punishment, as stipulated in Article 38 of the Notary offices law (Bahrami, 2014: 113).

By looking at the citation note, three duties can be extracted for notary offices regarding duplicate ownership documents:

1. Having a book called duplicate ownership documents book, in which the registration number of the subject of the duplicative document should be entered after the announcement of the issuance of the duplicative ownership document by the registry offices.
2. Suppose the offices want to prepare a document based on the duplicate ownership document. In that case, they are obliged to inquire about the registration process of the property subject to the duplicate document, and if there are no obstacles, proceed to prepare and register the document.
3. If the offices intend to draw up a document based on the original ownership document, if the subject of the transaction is real estate for which a duplicate ownership document has been issued, they are obliged to act in the manner prescribed in clause 1 above (Emami, 2012: 86).

The result of the three duties mentioned is that the notary offices, without exception, are obliged whenever they draw up an official document for immovable property to first refer to the duplicate ownership documents office. If the transaction is of real estate for which an identical ownership document has been issued, whether they want to draw up a document based on the original ownership document or based on its duplicate, they must ask the relevant registry office about the property registration process. After the explanations provided, the main question is whether the duties stipulated in the disputed note in having a duplicate ownership document office and especially the inquiry of the registration process of properties for which a duplicate ownership document has been issued with the recently approved law known as the law to facilitate the arrangement of documents in notary offices approved on 2006-8-15 still valid or not? Before the entry into force of the said law, the notary offices, based on the note of Article 31 of the Notary Office Regulations approved in 1938 (amended on December 1970), were obliged to check the status of Tehran's registered properties in terms of arrest and non-compliance with the provisions of the legal bill of government lands, municipalities, banks, and endowments approved July 1956 and the amended law of 1960. According to the circulars issued by the Real Estate Registration Organization of the country, the said duties have been extended to properties located outside the registration area of Tehran and other registration areas.

They have been implemented by notary offices all over the country (Asgharzadeh Bonab, 2012: 96).

### **Seven speech: Amendment of the ownership document**

**The meaning of amendment:** Amendment literally means to put things in order, to amend, to modify and make good and better, to correct, to arrange, to be kind to someone, to compromise, etc., and so on. In jurisprudence, reconciliation between two or more people in a matter about which they have a difference of opinion is called an amendment. Improving the existing situation is also interpreted as an amendment as they interpret the improvement of the leased property as an amendment. In law, correction of the existing law with a new law or with the judicial procedure is called amendment. Although the effect of judicial procedure in amending laws is considerable, it is limited. Therefore, the amendment of the ownership document can be defined as the set of principles and regulations that the legislator foresees to amend the mistakes and changes made in the ownership document. It has happened a lot that properties with a certain area were traded in the past, but later it turned out that they had an extra area. Suppose the additional area is not caused by encroachment on neighbors, streets, and public property, and with the approval of the representative of the registration and recognition of the head of the interior department, it is within the scope of the ownership document. By amending it, no one's rights will be violated. In that case, the owner can petition the amendment of his ownership document from the registry of the place where the property is located (Subject to Additional Article 149 of the Registration Law and Clause 391 of the Collection of Registration Circulars). In this case, the owner should submit his petition for the amendment of the document regarding the additional area to the annex of the original document of the initial transaction to the local registry office (Shahri, 2015: 64).

### **Conclusion:**

With all the credit that was said for property registration and ownership documents, and indeed there should be this credit for ownership documents, in practice, it has been noticed that sometimes property registration is done without complying with legal regulations, and sometimes adverse ownership documents are issued for a property and sometimes due to the mistake of the registry officers or others, mistakes are made in registration of properties and issuance of ownership documents. By abusing the laws, also individuals register the wastelands, public properties, and endowments properties for themselves. Sometimes, the necessity of time and social interests requires the revocation of property registration and ownership documents. These events, which have occurred in a considerable proportion, along with the mentioned social benefits, require and have to consider a way to amend or

revoke wrong or illegal ownership documents. In general, the revocation of the registration and ownership document or its amendment is sometimes done with a court order and sometimes without a court order. Revoking the ownership document by law: in cases where social requirements such as land amendment and land distribution among farmers or public interests such as the preservation of forests, pastures, and natural resources or Shariah purposes such as the preservation of endowments and acting according to the intentions of the guardians require it, by applying the necessary rules, the revocation of the registration and the ownership documents issued in the name of the persons are given. Some of these laws, such as the Law on the revocation of ownership documents of endowments, mandate the courts too, for example, revoke the ownership documents issued in the name of individuals and the registration of crown properties as property after verifying that the registered case was already endowment. Some of them, such as the law on the nationalization of forests and natural resources and the law on the protection and exploitation of forests and pastures, authorize the relevant departments to recognize natural resources and issue orders to revoke their documents. In these cases, the registration organization is obliged to revoke the issued ownership document and registration according to the petition of that authority, and this action is done without the need for a court order.

Revocation of the adverse ownership document and registration by the registry office: If the holder of the adverse ownership document does not go to the competent court and submit a petition within two months from the date of legal notification of the registry office to him, and the owner of the previous registration document obtains a certificate of his non-referral to the court and submit it to the registry office, the registry office directly and without the need of a court order or other competent authority, revokes the adverse registration and the adverse ownership document. In this case, no authority other than the registry office is involved in revoking the ownership document. Regarding the additional area: if the additional area is within the scope of the ownership document and the neighbors are not infringed upon, and at the same time, there is no contract between the owner and the buyer regarding the said additional area, the registry office will amend the document and notify the beneficiary to the receipt of the funds. According to Article 149 of the Registration Law, which has been described, while allowing the registry office to amend the ownership document, it has also preserved the rights of the seller and deferred the amendment of the document to the deposit of the price of the additional area and the legal costs of the transaction by the buyer. Amendment or revocation of the ownership document by order of the board of governors: the cases mentioned in clauses 3, 4, and 5 of article 25 of the

registration law. First: In the case where a typographical error occurred due to the inaccuracy and mistake of the author of the ownership document or the author of the real estate office. Second: If the registration of the real estate register or the ownership document is against or inconsistent with the official document. Third: If the registration of the real estate register or ownership document is contrary to the court's final judgment. In these three cases, the board of governors will order the amendment of the registration and ownership document after confirming the occurrence of a mistake, even if it disturbs the rights of others. Fourth: Regarding the mistakes that occurred during the preliminary operations and were inserted in the real estate office. If a mistake is found, the board of governors will issue an order to amend the registration of the real estate register and the ownership documents if it determines that its amendment does not harm anyone's rights. Fifth: Mistakes made in the separation operation located in the real estate office or ownership document. In these cases, the board of governors, in case of a mistake, and if it does not consider the amendment of the registration and document to be in violation of the rights of others, will order its amendment. According to what has been said, some suggestions are presented in line with the topic of the research: First, the legislative process and registration measures should be in such a way that the status of official documents is maintained in the country. The claims of individuals do not simply revoke official ownership documents. Also, registration operations should be carried out with more accuracy and a more appropriate process that does not cause mistakes and the subsequent need for amendment, and also the procedure of judges should take a step towards the strength and credibility of official documents and improve the status of official documents of ownership with proper interpretation of laws and other rules.

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#### **Ethical considerations**

The author undertakes that the article, whether the whole or part of it, has not been published elsewhere and is completely the result of the author's own research and that the material that

is the result of other people's research should be referenced to the original source.

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