

Faculty of Law, University of Delhi
Executive Development Training Program for
Lawyers, Judicial Officers, Administrators, Scholars
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Global Approaches to Land Administration And Key Lessons for India

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Overview of Presentation

- ☐ Land Administration- General Concepts
- ☐ Global Practices in Land Administration
- ☐ Land Administration System in India
- ☐ Towards Better Land Administration

Land Administration General Concepts

Land Administration

As per United Nations Economic Commission for Europe (UNECE) “Land Administration is the **process** of **determining, recording** and **disseminating information** about **ownership, value** and **use of land** and its associated resources. These processes include the determination (sometimes called ‘**adjudication**’) of land rights and other attributes, **surveying** and describing these, their detailed **documentation**, and the provision of relevant **information** for supporting land markets”

Land Administration (cont.)

- Survey and description of land parcels
- Recording value, use and other characteristics of land parcels
- Recording ownership and other rights on land
- Enabling transfer of land
- Providing information on the above.
- Dispute Resolution

Global Practices in Land Administration

Components of Land Administration

Cadaastre

- ❖ Started by Napoleon in Europe in 1807 for tax collection
- ❖ Cadastral mapping of whole country
- ❖ Emphasis on parcel boundaries, land use, tax.
- ❖ Rights are also recorded

Land Register

- ❖ Started after industrialization
- ❖ Emphasis on recording rights and transactions in land
- ❖ Legal sanctity of recordings
- ❖ Spatial description of parcels may or may not be there

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Cadaastre

A cadaastre is a **parcel-based land information system** containing a **record of interests in land**. It includes a **geometric description** of land parcels, **ownership and other interests**, and often the **value of the parcels**. It is established for **fiscal purposes** (e.g. valuation and taxation), **legal purposes** (conveyancing), or to assist in **the management of land** (e.g. for planning and other administrative purposes).

Global Practices

- ❑ No cadastre in the USA, the UK and Australia
- ❑ Germany, France, the Netherlands, Spain, Portugal and many other countries of Western Europe have well-established cadastres
- ❑ India and many Asian countries have inherited cadastre from colonial rulers.

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Land Register

Deed Registration System

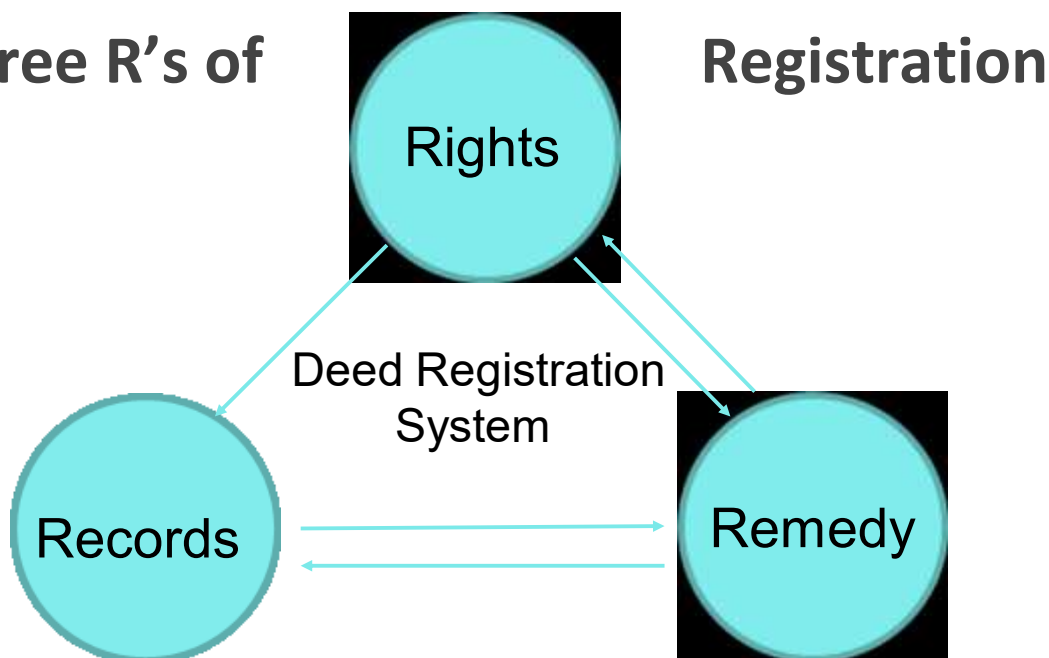
- Transfer of title through a transfer deed
- Parcel-wise ownership Record not maintained
- Registration is an evidence of transaction but does not guarantee a good title
- Principle of 'Nemo dat quod non habet'- "no one can give what they do not have' is applicable

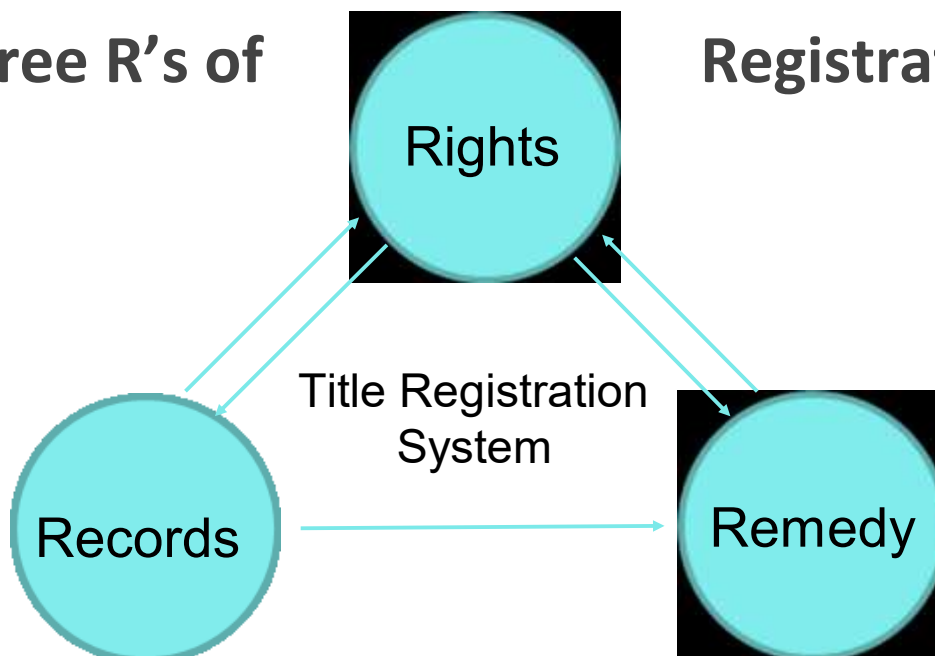
Land Register

Title Registration, Conclusive Title, Torrens System

- Parcel-wise land register is maintained
- Legal validity of transaction is examined by registrar before registration
- Registration is conclusive proof of title
- State compensates for monetary loss to a party due to any defect in the title register

Three R's of



Three R's of**Registration**

Global Practices

- Almost equal following of both systems in the world
- Among top ten economies:
 - The USA, Japan, Italy, France, India, and Brazil- Deed Registration
 - Germany, the U.K., China – Title Registration
 - Canada- Both Systems are prevalent in different provinces

Land Administration in India

Division of Legislative Powers

Union List

- 86. Tax on capital value of assets, except on agricultural land
- 87. Estate duty on property other than agricultural land

State List

- 18. Land, rights in land, relation of landlord and tenant, transfer of agricultural land, land improvement and agricultural loans, colonization

Concurrent List

- 6. Transfer of property other than agricultural land, registration of deeds and documents
- 7. Contracts, excluding contracts relating to agricultural land

Division of Legislative Powers

Union List

88. Duties on succession to property other than agricultural land.

State List

45. Land revenue, maintenance of land records, survey for revenue purposes and records of rights.

47. Duties on succession to agricultural land.

Concurrent List

41. Custody, management and disposal of evacuee property.

Central Laws Related to Land Administration

- The Registration Act 1908
- The Transfer of Property Act 1882
- The Specific Relief Act 1963
- The Hindu Succession Act 1956
- The Muslim Personal Law (Shariat) Application Act
- The Indian Succession Act 1925

Central Laws Related to Land Administration

- The Waqf Act, 1995
- Land Acquisition Act (RFCTLARRA 2013)
- The Forest (Conservation) Act, 1980
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Central Laws Related to Land Administration

- The Indian Contract Act, 1872
- The Indian Stamp Act of 1899
- The Real Estate Regulation & Development Act (RERA) 2016
- Urban Land (Ceiling and Regulation) Act (ULCRA), 1976
- The Limitation Act 1963

State Laws Related to Land Administration

- Land Revenue Acts
- Survey and settlement laws
- Land Reforms Acts
- Laws Restricting Transfer Of Land of Scheduled Castes and Tribes
- Consolidation of Land Holdings Acts

State Laws Related to Land Administration

- Ceiling on Land Holdings Acts
- Laws Related to Common Lands
- Restriction on Use of Land
- Ceiling on Land Holdings Acts
- Laws Related to Common Lands
- Restriction on Use of Land

Record of Rights- Cadastre

- Introduced by the British in 1822
- Created to assess and collect land revenue
- Cadastral Maps showing boundaries of parcels
- Parcel-wise record of ownership and rights
- Maintained under Land Revenue Acts of States.
- A quasi-judicial process to update records
- **Entries in the ROR are presumed to be true.**

Concept of Presumption of Truth

Sec.157 of Maharashtra Land Revenue Code :

‘An entry in the record of rights, and a certified entry in the register of mutations shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.’

Concept of Presumption of Truth

Sec. 44 of Punjab Land Revenue Act 1887

‘An entry made in a record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with the provisions of this Chapter and the rules there under, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.’

Registration In India

- Introduced in India in India in 1793
- Compulsory registration of most transactions under Registration Act 1908
- Exemptions- Inheritance, family settlement, court decree, agricultural leases, government grant etc.
- Purchaser Responsible for verification of title
- Granter-Grantee and Tract-wise Indexes
- No efforts to reform more than a century old law

Legal Standing of Registration

- Unregistered transaction is not valid
- Constructive notice under TOPA 1882
- Legality of transaction not examined by Registrar
- Registration is 'evidence' but not 'proof' of title
- Any defect in seller's title passes to buyer.

Towards Better Land Administration

Goals of Good Land Administration

- Equitable ownership of land in the society
- Reliable records of rights and transactions in land
- Simple Process to update records
- Easy access to information on rights in land
- Easy transfer of land as an economic asset.
- Easy availability of credit against land
- Minimal litigation related to land

Towards Better Land Administration

- Extensive review of archaic laws and procedures
- No assignment of multiple duties to Land Revenue officials
- Digitization with Business Process Re-engineering
- Digitization for better land-related services
- Online Mutations and other services

Towards Better Land Administration

- Automatic mutations in undisputed cases
- Creation of updated ROR for urban areas
- Integration of deed registry and record of rights
- Incorporation of phone, email, current address, Aadhar in records.
- Easy access to ROR, like bank accounts and rights to update information

Towards Better Land Administration

- Use of email, SMS, WhatsApp etc. for information to landowners
- Implement Electronic Conveyancing
- Deed Registration on PPP Model.
- Land-related services through the private sector
- Dispute resolution by Arbitration (ADR)

Thanks!

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