

Executive Education Program:
Demystifying Land Laws,
Regulations And Planning For The
Real Estate Sector

FLAME University and Landstack under the
IncLand Initiative

Session 3.3

Reading the Land :
Cadastral Systems
and Digital Land Records
in Real Estate
Due Diligence

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PROPERTY
RIGHTS

VS

LAND
RECORDS

Civil Courts Vs Revenue Courts

Revenue Court

- ❖ Decides what entry is to be made in records
- ❖ Under Land Codes no power to decide title disputes or change possession
- ❖ Revenue codes bar civil court jurisdiction in procedural matters

Civil Court

- ❖ Decides who has rights, gives injections, orders change of possession
- ❖ Entry in record will change as per order
- ❖ Civil courts can not be barred from deciding title disputes

Record of Rights or Cadastral

A cadastre 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).

British Land Revenue Systems

Origin of Record of Rights In India

- **Zamindari System** - Bengal, Bihar, Orissa Central Provinces and part of Madras Presidency
- **Ryotwadi System** - Most areas of Madras and Bombay Presidencies and Assam
- **Mahalwadi System** - North-West Provinces (UP), and Punjab

Features of Record of Rights

- Introduced by the British in 19th century
- To assess and collect land revenue
- Made under Land Revenue Acts of States
- Maps showing boundaries of parcels
- Parcel-wise record of ownership and other rights
- Transfer of rights updated in records
- Quasi-judicial process to make and update records
- Title disputes decided by civil courts
- Property Tax records are not record of rights
- Entries in the ROR are presumed to be true until proved wrong

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.'

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.'

Deed Registration

- ❖ Compulsory registration of most transactions
- ❖ Exemptions- Inheritance, family settlement, court decree, agricultural leases, government grant etc.
- ❖ Records not arranged as per parcel number
- ❖ Purchaser Responsible for verification of title
- ❖ Legal validity of transaction not examined

What does Registrar do?

- ❖ Checking of formats etc. of deeds
- ❖ Identification of parties
- ❖ Confirmation of execution from parties
- ❖ Issuance of Certificate of Registration
- ❖ Keeping a copy in records
- ❖ Granter-Grantee and Tract-wise Indexes

Legal Standing Of Registration

- A transaction deed has no effect unless registered
- Unregistered deed not admissible in court as evidence
- Registration is evidence of transaction.
- Registration is not conclusive proof of transfer of title
- Any defect in seller's title passes to buyer.
- No one can give what he doesn't have

Legal Due Diligence

- Title
- Restriction on Use
- Encumbrances

Investigation of Title

- ❖ Owner's right to transfer and possession, easement rights
- ❖ Inheritance- Intestate, Wills, HUF, Family Settlements
- ❖ Self Acquired and Ancestral Property in Hindus
- ❖ Sale of share in joint property
- ❖ Pending litigation
- ❖ Agreement to sell
- ❖ Land of Scheduled Caste, Scheduled Tribes, Allottee, farmers
- ❖ Land Acquisition Proceedings

Restriction on Use

- ❖ Town Planning Restrictions
- ❖ Permission for development/construction/occupation
- ❖ Environment Restrictions
- ❖ Any other special restriction like building height restrictions near airport

Encumbrances

- ❖ Mortgages and Charges
- ❖ Insolvency Proceedings, liquidation of company
- ❖ Court cases/ Lis pendens
- ❖ Municipal Property Tax and other dues
- ❖ Development authority dues
- ❖ Unpaid price of land
- ❖ Contractor's dues



THANKS

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