The Land Titles System and Practice in the Kingdom of Saudi Arabia

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The Realty in Kind Registration Law ('RKR Law'), issued by Royal Decree No. M/6 on 9/2/1423H, was enacted to create a transparent land identification, ownership and registration system which will ultimately cover all real estate in the KSA.

Pursuant to the RKR Law, a copy of the cadastre called a 'title deed' is issued to the owner of a plot of land or a building once the ownership is entered into the cadastre (Article 67). This title deed certifies and confirms the ownership of a plot of land or a building. Article 2 of the RKR Law provides that "[t]he register shall have an absolute confirmation power, and its content may not be objected after the elapse of the defined periods for objection stipulated in this law, unless based on the breach of the Sharia requirements, or on forgery of such".

However, the application of the RKR Law is still limited to specific areas and is unlikely to be implemented beyond these areas. The predominant practice in KSA is that of titling and conveyancing through notaries (under the Ministry of Justice along with the courts) pursuant to Executive Regulation of Notaries Public Jurisdictions ('Notaries Regulations'), Ministry of Justice Circular 13/T/2460 on 25/5/1425. If a plot of land is located in an area where the RKR Law has not been implemented, the document certifying and confirming the ownership of a plot of land or a building is a title deed issued to the owner by a regional government employee of Shari'ite qualifications ('Notary Public') or a court.

In 2015, for example, the Ministry of Justice passed a resolution No. (5135) dated 4.3.1437 AH providing

that the RKR Law applies to certain real estate zones (as indicated in the resolution).

Manual and Electronic Titles

Historically, title deeds in KSA were handwritten. However, since 2008, the Ministry of Justice has been implementing an initiative to convert all handwritten title deeds into an electronic format.

In regards to their content, we note that title deeds are in Arabic only (except for titles created by the Economic Cities Authority) and reference to the Municipality plot numbers. They also record details of proprietorship and may note mortgage details or other covenants. What is recorded on the title must be in accordance with Shari'a Law.

Pursuant to that initiative, any transaction concerning an old handwritten deed requires conversion into the electronic format prior to formalising any transaction or any dealing with the land.

In addition, the Ministry of Justice provides a researchable electronic database where one can enquire about land ownership by filling in the electronic title deed number of the plot.

Conveying Title

Dealings with real estate in KSA are principally carried out according to a well-established and traditional process involving private negotiations followed by the participation of the Notary Public, who completes a change in ownership and records such details in a register retained by the Ministry of Justice.

Additionally, the Registered Real Estate Mortgage Law ('Mortgage Law'), issued in 2018, has now paved the way for a traditional mortgage structure, whereby the title to the property would remain with the borrower and the bank would obtain a registered mortgage.

However, the requirement for registration is subject to the type of transaction, the parties to the transaction (whether they are individuals or companies) and their nationality.

For a transaction involving Saudi or GCC citizens, the following requirements must be met (with the provision of the indicated documentation):

1. the attendance of the parties to the Sale and Purchase Agreement or their representatives providing official documents (ID/proof of representations);
2. the original electronic title deed;
3. the registered payment method;
4. the sub-division document of the property if the transfer relates to a part of the property;
5. the approval of the Agricultural Development Fund, if the property is agricultural; and/or
6. if the property is mortgaged, the mortgagee's consent.

For a transaction involving a foreign investor(s), the documents above are required in addition to the following:

1. the approval of the competent authority (e.g. Ministry of Interior / Ministry of Foreign Affairs/SAGIA) on the purchase; and
2. the fulfilment certificate from the Ministry of Finance (regarding the sale).

The Real Estate General Authority ('REGA') and Potential changes.

Whilst the land titles system in place is quite functional, we understand that, in due course, the real estate regulation including the land titles systems and practices are likely to be moved from the various ministries currently responsible for this to REGA. A land titles law is currently under consideration and it is anticipated that this will address:

1. more detailed titled deeds including the ability to search these by plot number and name of the owner;
2. the ability to record covenants and easements against titles and for the obligations pursuant to these to be enforceable by the beneficiary of such rights;
3. the ability to register Master Community Declarations and Owners Association documents against the titles and for these to be binding on the owners;
4. the ability for REGA to prevent the transfer of title pending receipt of the approval of the master developer or and owners association;
5. more advance titling options such as the sub-division of parts of mixed use buildings; and
6. possibly the option to record title details in English and Arabic.

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