

On 13 March 2006 his Highness Sheikh Mohamed Bin Rashid Al Maktoum, Ruler of Dubai, Vice President & Prime Minister, issued the Law No. (7) of 2006 regarding real estate registration in the Emirate (the "Law").

The Law is comprised of 11 chapters and 29 articles addressing mainly: the right of acquiring real estate, the competence of the Lands & Properties Department in Dubai with regard to the real estate registration and the establishment of a Real Estate Registrar along with the requirement for the alteration and rectification of the Real Estate Registrar records.

We shall hereunder shed light on two main features brought into the Dubai real estate market:

- 1 The acquisition of real estate by expatriates; and
- 2 The set up of a Real Estate Registrar.

Starting by the right to real estate acquisition, Article (4) of the Law provides that the right to own real estate in the Emirate is initially open to U.A.E. and GCC nationals and the companies wholly owned by them. Public Joint Stock Companies are equally permitted unconstrained real estate ownership while knowing that their share capital would be open to a widespread public, whether foreign or national. By virtue of the same article, the Ruler may also grant non U.A.E. or GCC nationals the unconstrained right to acquire real estates in such areas he specifically determines. This includes absolute ownership which is not time limited and the rights to usufruct and leaseholds for a maximum of 99 years.

It is obvious that the Law consecrates the rights of the U.A.E. and GCC nationals, by granting them exclusivity in acquiring real estate in the Emirate of Dubai without distinction as to the area where the real estate is located. What is the real merit of this Law? Always driven by the aim to foster foreign investment and comfort the real estate operators in Dubai market as to the safety of their operations, the merit of this Law is that it has put an end to the precedent practice of real estate acquisition by side agreements. Rather than entering illegal or side arrangements, expatriates may now be able to take title to 99 years usufructs and leaseholds and benefit from the registration of their title in the Real Estate Registrar. In other words, what used to be a mode widely adopted to circumvent real estate policy or an informal freehold practice, has now been duly formalized and stands as the proper procedure to take title to a real estate.

Turning to the real estate registration factor, Article No. (7) of the Law calls for the establishment of a Real Estate Registrar at the Department of Lands & Properties. The purpose of this Registrar is to record all the titles to properties and any modification thereto. Such a Registrar is a central element that brings order to the innumerable real estate transactions. The Real Estate Registrar stands as conclusive evidence against third parties; the records in it shall be incontestable unless they are generated through fraud or forgery or otherwise modified by court order.

This is important a step as it ends a lively dispute about real estate transactions and the identity of the real estate owner and who, at the end of a series of sales, is the real owner of the property. To sanction failure of registration, Article (9) of the Law provides that the transaction will be unrecognized.

In conclusion, one has little doubt that the Law is a great leap in the establishment of a real estate investment climate.

Yet, the question that keeps puzzling the reader of the Law is the basis on which Public Joint Stock Companies were allowed real estate acquisition in an unconstrained manner. This is welcomed. Perhaps it confirms the practice set out prior to the Law or more importantly, triggers the birth of an unfettered openness to real estate investment as many foreign Public Joint Stock Companies have by now set the cap on Dubai as their prime hub.

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