

Property Rights in Jordan

Table of Contents

1. Introduction	2
2. Executive Summary	3
3. The Jordanian Constitution and Private Ownership	4
4. Ownership of Movable Property	5
5. Ownership of Immovable Property	5
6. Lands and Water Settlement Law and its Amendments No. (40) of 1952....	6
7. The Disposition of Immovable Property Law No. (49) of 1953.....	9
8. The Management of State Property Law No. (17) of 1974.....	10
9. Housing and Urban Development Corporation Law and its Amendments No. (28) of 1991.	13
10. The Development of Jordan Valley Law and its Amendments No. (19) of 1988.....	14
11. Notes and Conclusions:	15

1. Introduction

This paper aims to discuss in general terms the legal status of ownership rights of the poor in an attempt to identify the main obstacles for securing private property rights of the poor. Said obstacles may prevent or reduce the capacity of the poor to benefit from the economic value of the property as a source of wealth or a mean of production.

In this regard, the research methodology adopted is based on reviewing the legal status of private ownership in light of the Jordanian Constitution and the laws that deal with topics of ownership. Logically the focus should be on those laws dealing with ownership of immovable property (real estate) as one of the rights that require specific legal procedures that would enable owners to secure their ownership on one hand and on the other hand enable them to utilize the same in many different ways.

The Paper seeks to address the subject matter issues through discussions with the concerned parties in order to provide realistic opinions on the issues of concern.

Finally, this paper does not provide a legal opinion on the methods of acquiring ownership under Jordanian laws nor it discusses the procedures or requirements for the disposition of ownership, but in general it attempts to monitor what could be an impediment to the poor to protect their rights relating to property.

2. Executive Summary

The subject of ownership rights is of great importance in every country, as it affects in many ways the lives of people from different backgrounds. However, the most affected group could be the poor. In many countries, the poor depend on their land to sustain their livelihood; hence, the issue of ownership rights is of significant importance for them and for their economic performance.

In Jordan, ownership rights are governed by a number of legislations and are subject to different formal procedures. Such legislations and procedures would usually add complications to the "relationship" of the poor with their property or what they would perceive as their property. More importantly, however, the poor may find themselves in a position where they have to prove their ownership right to their property. Such difficulties would primarily rise during the settlement process of lands in different areas in the Kingdom.

On the other hand, the Government through a number of legislations, had introduced mechanisms to enable the poor to own a land or a house. The role of the Government comes as a supporter to the poor through introducing different schemes that are designed to provide land and housing to the poor for no or minimal value. Such schemes are also governed by certain set of legislations and procedures.

Therefore, the paper concludes that enforcement of property rights of the poor is mainly a matter of compliance with the legal system in place. In practice, such system may not be user friendly to the poor to comply with. Reasons for this include social pressure, lack of knowledge and access to information, and the status of women in the society whereby in many cases women may be forced to waive their rights in any estate or property to the favor of males.

3. The Jordanian Constitution and Private Ownership

Article (6) of the Jordanian Constitution and its amendments of 1952 states that all Jordanians are equal before the law without discrimination in their rights and duties, even if they differ in race, language or religion. The State shall make available work and education within its means and ensure tranquility and equal opportunities to all Jordanians.

Article (11) of the Constitution states that (No Private Property shall be Acquired except for public benefit and in return for fair compensation which shall be designated by the Law).

Article (12) of the Constitution also states that (No Constraint Loans shall be imposed and no movable or immovable property shall be confiscated except according to the Law).

Accordingly, various legislations has been introduced in Jordan relating to the topic of Property and which constitute part of the Original Real Rights as put forward by Article (70) of the Jordan Civil Code No. (43) of 1976, said rights include ownership, disposition, usufruct, residence, abstract rights, dedicated lands, utilization of trust land for specific consideration (Al-Hikr), Dual Lease of Trust land (Al-Ijaratayn), and vacancy of usufruct (Khuluw al-Intifa').

For the purposes of this paper, property will be divided into two types, **movable and immovable property**, in order to distinguish between the legal foundations and special requirements for proving ownership of each type as well as the legal actions applicable to both types.

Furthermore, this paper aims to identify the requirements and legal actions that may be a barrier to the poor to acquire ownership of land or stabilize their property or dispose of in any form available in the related laws.

4. Ownership of Movable Property

Article (58) of the Jordanian Civil Code defines Movable Property: (Anything that is fixed and constant in its place and can not be moved there from without damage or deformation, is immovable property and anything else is movable property).

In this context, the Jordanian Civil Code developed a set of principles meant to fix the rights to movable property, both in terms of acquisition of such property or proving it ownership or dispose of it.

Article (1076) of the Jordanian Civil Code states that:

"Whoever posses a permissive movable property not owned by any person with the intention of owning it shall be entitled to own it".

Also, Article (1189/1) of the same Code states that:

"A case for ownership shall not be heard against the possessor of a movable property or a right in rem in it or of a bearer bond if his possession is based on a valid ground of *bona fides*".

The General Rule adopted by the Jordanian Courts in proving the ownership of a movable property is that (Possession of movable property is considered as a proof of ownership).

5. Ownership of Immovable Property

The legal status of immovable property differs from that of movable property, not only between the two types of properties, movable and immovable, but also within the immovable property itself, which vary between each other in several respects. Such sub-types of immovable property will be generally discussed in this paper only for the purposes of identifying legal requirements

relevant to each of said sub-types in terms of proving ownership and ability to utilize the same.

Immovable property is defined, as discussed earlier when defining movable properties, as "Anything that is fixed and constant in its place and can not be moved there from without damage or deformation is immovable property". Such definition obviously includes lands and buildings.

The Legal environment in Jordan in relation to lands and buildings, includes different requirements depending on the location, type, size and use of the land. Such requirements affect the claim of ownership and also the ability to utilize the same.

What needs to be considered in this paper is the legal status according to Jordanian Legislations of the methods used to prove the ownership of a land by its owner and the legal requirements relating to disposition of such land as an immovable property.

Accordingly, the following laws shall be considered:

- Lands and Water Settlement Law and its Amendments No. (40) of 1952.
- The Disposition of Immovable Property Law No. (49) of 1953.
- The Management of State Property Law and its Amendments No. (17) of 1974.
- Housing and Urban Development Corporation Law and its Amendments No. (28) of 1991.

6. Lands and Water Settlement Law and its Amendments No. (40) of 1952.

Article (3) of the Law states that: "According to the definition of Lands and Water Settlement as provided in the previous Article, the Settlement of Lands and water deals with all persons, bodies and associations who have the right

of disposition or the right of ownership or the right of usufruct in the lands and water in the Hashemite Kingdom of Jordan whether such rights were recognized or disputed".

Under this Law, the Director of the Department of Lands and Survey can decide on the commencement of the Settlement Works of lands or water in any area (to be known as Settlement Area). Such decision would be published in the Official Gazette and includes all the details of the settlement of the lands or water as the area of settlement and the date of starting the settlement.

When the proposed date to start the settlement is determined, those who live in the area where the settlement will be taking place shall be informed about such settlement by a public announcement, which is referred to as (Settlement Announcement).

According to Article (7) of the Law, all persons who claim to have a right of usufruct or ownership or disposition or any other related rights in the land or water, shall submit their claims and any supporting documents to the authorised officer who shall investigate such claims publicly and according to the agreed methods.

Also, the Law has permitted the Director of the Department of Lands and Survey or the authorised officer to attempt to try reconciliation between the conflicting parties. If the parties to the dispute agreed to such reconciliation, a reconciliation bond will be concluded including all the points that have been agreed upon between the conflicting parties and the description of lands that was included in such reconciliation. Said bond will be signed by the conflicting parties in the presence of witnesses.

After checking all the claims submitted by those living in the settlement area, a schedule called (Schedule of Rights) shall be prepared. Such schedule would include the rights of all parties who are affected by the settlement work.

Article (12) of the Law gives the right to any person whose name was mistakenly not mentioned in the schedule, or if any of his rights were mistakenly given to another person or if the value of his land or water quotas were estimated mistakenly, or if his disposition right, ownership right, or usufruct right were inappropriately misplaced, in all such cases, such person shall have the right to object in writing **within (30) days** starting from the date of publishing the schedule of rights to the Director of the Department of Lands and Survey explaining the reasons for making such an objection, the Director will then transfer the objection to the Court "Settlement Court".

The Settlement Court is the authorized entity to deal with any objection submitted against any of the matters relating to the Settlement process. The Decision issued by the Court could be appealed if the value of the case is (JD 200) or more. Also, the decisions of the Court of Appeal could be further appealed to the Supreme Court if the value of the case is (JD 1000) or more.

When the settlement process is completed, the proving of ownership and any other actions relating to the settled immovable property becomes subject to the procedures of the Department of Lands and Survey. All actions taken otherwise shall be null and void if taken outside the Department of Lands and Survey. Article (16) of the Settlement Law states that **"In the settled areas, selling, exchanging, emitting and partitioning of a land or water shall be null and void if such transaction is not registered with the Department of Lands and Survey. Every person who is a party to a similar transaction shall be subjected, after being convicted from the Court, of paying a fine not exceeding (JD 5) if the transaction is not registered with the Department of Lands and Survey."**

Also the Law states that contracts of crops sharing and lease contracts relating to a settled land should be registered in the Department of Lands and Survey, and the Court shall only deal with registered contracts".

In this regard, it is useful to review some of the decisions of the Supreme Court relating to the subject::

"It is required for any contract relating to an immovable property to be registered with the competent Land Registration Department pursuant to Article (1148) of the Jordanian Civil Code and Article (16) of the Lands and Water Settlement Law and Article (2) of the Disposition of Immovable Property Law, otherwise such contract shall be null and void and ineffective. Any relinquishment of ownership issued by the heirs of a dead person shall be null and void before its registration in the competent Lands Registration Department".

"If the land is settled and a registration ownership bond is issued, such bond could only be challenged for forgery".

"Personal evidence shall not be used in a Court of Law to challenge an official land registration bond, as according to Article (7/1) of the Jordanian Law of Evidence which states that official bonds shall be an undisputed evidence on all people with regard to the information mentioned in them and whether such bonds are prepared by a public officer or signed by the interested parties in front of a public officer, except those bonds which are proved to be forgeries".

7. The Disposition of Immovable Property Law No. (49) of 1953.

Article (2) of the Disposition of Immovable Property Law states that: "All disposition transactions relating to public lands, dedicated lands, private lands, municipality building tax (musaqafat), and the authority to issue official bonds relating to such transactions shall be confined to Lands Registration Departments".

Notably, the above Article reconfirms the provisions discussed earlier in the Lands and Water Settlement Law with regard to the disposition of immovable property.

However, with regard to the proving of ownership of immovable property, Article (4) of the Disposition of Immovable Property Law states that:

"Registration Bonds issued by the Department of Lands shall be accepted by all Religious and Regular Courts, and all Government Departments without any further need to provide supporting evidence to the contents of such bonds, and such bonds shall not be treated as null or be corrected unless according to the Laws of Lands Settlement".

The above Article undoubtedly emphasizes the conclusiveness of registration bonds, which amount to the stage where it restricts the authority of Courts in proving the ownership of immovable property and confines all claims regarding such bonds with what has been already discussed in the Lands and Water Settlement Law.

8. The Management of State Property Law No. (17) of 1974.

As part of the legal materials mentioned above, it is necessary to address the Management of State Property Law, which includes the mechanism of State property delegation for all purposes including agricultural and housing purposes, which are subject to the conditions set forth in said Law.

Article (8) of the Law of Management of State Property states that Subject to the provisions of paragraph (c) of this Article, the delegation and lease of State property shall be done according to the following priorities:

A. Agricultural Purposes:

1. Farmers who are engaged in agricultural work and they do not have the property registered in their names and usually reside in the area where the land is located.
2. Registered Agricultural Cooperative Societies, which aim to revive agricultural land, provided that its members reside in the area where the land is located.

3. Graduates of Agricultural schools, institutes and colleges, other than the employees of such universities or institutions or colleges, who normally reside in the area where the land is located.
4. Farmers who normally reside in the area where the land is located and are engaged in agricultural work and do not have enough land to sustain them.
5. Delegation of State Property for agricultural purposes according to the priorities set forth in this paragraph and in exchange for at least 75% of the estimated value of the delegated property.

B. Housing Purposes:

1. The Delegation of State property for housing purposes within the organized areas or municipal areas in return for its market price for any person or his/her spouse who does not own a house and resides in the same area where the land is located and who is responsible for supporting his family, in such case it should be noted that every person is entitled for one delegated land.

It should be noted that the legal status of the process of delegating the land according to the provisions of the Law is similar to the process of giving ownership of the land except for the restriction imposed on the disposal of the delegated lands before the lapse of (10) years from the date of registration at the Department of Lands Registration. Article (15) of this Law states:

"It shall not be permissible for any person whom a land has been delegated to him to sell or donate or exchange for another property before the lapse of at least (10) years from the date of registering such land in his name at the Department of Lands Registration at the time of delegation, with the exception of the following:

- a. Lands delegated before this Law entered into force or lands to be delegated to Employees Housing Associations when transferring its ownership along with all houses constructed to its members.

- b. Roads and other immovable property earmarked for public utilities when delegated to owners who have those roads and immovable property within their territory.
- c. Immovable property when sold or transferred for the purpose of executing a debt, and the creditor is an official lending institutions.
- d. Lands which are disposed of by sale, donation, exchange or assignment among heirs up to the third degree, or between spouses, brothers and sisters and partners in the same delegated land.
- e. Lands which have been delegated before this Law came into force or will be delegated later to a public university or the Industrial Estates Corporation, when selling any part of such lands to any party to establish an investment project provided that the Council of Ministers provides its prior approval to such sale.
- f. Lands which are delegated to any party for the establishment of large investment projects and after its establishment on condition of acquiring the prior approval of the Council of Ministers and according to the conditions imposed on any investor or investment project for that purpose."

Furthermore, Article (5) of the Delegation and Lease of State Property Regulation and its Amendments No. (53) of 1977 states that:

"The Delegation and lease of State property for agricultural purposes according to Article (8) of the Management of State Property Law should be to the person who supports his family and who is responsible for such support and according to the following land sizes:

- A. Five Hundred Dunums¹ of lands in the Eastern Area.
- B. One Hundred Dunums of lands in the Mountains.
- C. Two Hundred Dunums of red land (Close to the Aghwar).
- D. Fifty Dunums of lands which could be transferred into irrigation lands.

¹ One dunum equals 1,000 square meters.

9. Housing and Urban Development Corporation Law and its Amendments No. (28) of 1991.

The Housing and Urban Development Corporation Law has been directly introduced with the aim of assisting the poor to own their own lands and through providing financing mechanisms which depend on benefiting from the lands owned by the State as been discussed earlier in the Management of State Property Section and Lands and Water Settlement Section. Article (12) of the Housing and Urban Development Corporation Law states that: "The Delegation of State lands which are suitable for the projects of Housing and Urban Development Corporation could be done for free".

Also, Article (13/A) of the same Law states that the Corporation's Council has the right to allocate real estate to the beneficiary depending on his needs and taking into account his financial ability to pay the price for the same, according to the following conditions:

1. The beneficiary shall be a Jordanian national not less than (18) years of age.
2. That neither the beneficiary nor any of his minor children own a proper residence in the area of the project or is capable of constructing the same or acquiring it in light of the financial circumstances of the beneficiary or his children.
3. That neither the beneficiary nor any of his minor children have already benefited from other housing projects from any official body in any area.

It is noted that the Housing and Urban Development Corporation Law allows for transferring ownership of real estate in return for monthly installments paid by the beneficiaries at the same time, the corporation is entitled to recover the real estate from the beneficiary if said installments were not paid.

Also, it should be noted that the same Law has exempted the projects of the Corporation from registration fees payable on the ownership transference of housing unites from the beneficiary to a third party.

10. The Development of Jordan Valley Law and its Amendments No. (19) of 1988.

This Law was introduced to ensure the sound development of the Jordan Valley area in terms of developing water resources for agriculture, housing, industry and the generation of electricity. Also the Law covers the development, protection and improvement of the environment in the Jordan Valley. More importantly, there are some Articles in this Law which directly touches the subject matter of this paper as it affects the issue of ownership rights.

The Jordan Valley is managed mainly by the Jordan Valley Authority which was mandated under the Law, certain powers over lands in the Jordan Valley Area. Article (21) of the Law states that:

"The Jordan Valley Authority, upon the approval of the Council of Ministers, shall have the right of acquisition and immediate possession of lands and water quotas or both in the Jordan Valley and Jordan Rivers embankments for developing its projects whenever deemed necessary. The Authority also shall have the right to possess any usufruct rights relating to lands or water either through ultimate possession in return for compensation, or through lease for the period deemed necessary by the Authority".

It is noteworthy that Jordan Valley Authority Law provides for the possibility of allocating lands in the Valley to the Poor. Article (22/2) of the Law states:

"Farmers who work in agriculture in the valley and who do not own agricultural lands may be allocated, once only, an agricultural unit from the lands owned by the Jordan Valley Authority if available".

Furthermore, Article (23) of the Law states:

"The Board of Directors of the Jordan Valley Authority may allocate to Jordanian Nationals who resides in the Valley and who do not own lands within the residential areas, residential land units from State owned lands and on an area not exceeding (1500 sqm), taking into consideration the size of the family of those benefiting from such allocation and according to the priorities and foundations set by the Board of Directors and approved by the Council of Ministers including the methods of payments for such units".

11. Notes and Conclusions:

1. The Jordanian Constitution has guaranteed the right of every Jordanian for private ownership without discrimination between any types of ownership or between the individuals themselves. Furthermore, the Constitution clearly provides that no private property shall be acquisitioned except in the cases which serves public interest and in return for a fair compensation.
2. The ownership of movable property is proved to its owner through possession according to the general doctrine that possession of a movable property is a valid proof of ownership by the possessor.
3. The ownership of immovable property is subject to formal procedures which affect the rights and actions on such immovable property, depending also on the type of such property, size location and the like. The decisions of the Jordanian Courts are unified on nullifying all transactions relating to immovable property inside the settled areas if said transactions were not affected by the competent Land Registration Department.

4. In this context, it is observable that the settlement of those rights relating to lands included in the settlement process requires the adherence to specific procedures and dates specified in the law. Furthermore, it can be observed that such procedures could place obstacles to some groups in the Society who either want to recover or reaffirm their rights on lands which they occupy or use.
5. The procedures for claiming the ownership of a land or objecting such ownership by others might not always be fair as a result to different social factors or influence especially on women. Such unfair practices are observed in the assignment of rights among heirs where women could be compelled, as a result of social and family pressures, to sell in full their shares in the inheritance to their male relatives without even knowing the worth of the Estate itself.
6. In addition to the above, the process of lands settlement could last for long period as its procedures are subject to the authority of all degrees of Courts as indicated in the Lands and Water Settlement Law.
7. It is believed that Land settlements needs to be more frequent, especially that ownerships outside the settled areas is considered in terms of guarantees and value lower than those ownerships in the settled areas. In this regard it should be noted that the Council of Ministers issued a recent decision on 26/3/2006 to put on hold any new settlement processes until the completion of the Map for Lands Uses in the Kingdom. We believe that the completion of the Map for Lands Uses in Jordan is extremely helpful as it enhances people's knowledge on the value of their lands and thus minimizes the risks of them being deceived by influential parties. However, we believe that such process is long overdue and therefore should be expedited in order for settlement works to commence without further delay.
8. The importance of having access to lands whether for housing or agriculture, has been and remains a major challenge to the Government. We note that the Articles of the Management of State

Property Law included the possibility of delegating State's lands to the poor for the purposes of housing or agriculture. However, we think that the mechanisms and foundations of delegating such lands needs to be activated, and more importantly, work need to be started on encouraging those who live in less fortunate areas to take advantage of such lands which could become a growing source of income to them.

9. In addition to the above, we find that the Laws permit the use of delegated lands as collateral on loans provided to the owners of such lands. In this regard Credit Corporations (public or private) should participate in an active role in developing suitable programs for small projects as a way of fighting poverty and unemployment.

10. In the Housing and Urban Development Corporation Law, we note that the legislature got very close to the issue of offering ownership of lands to the poorer classes for the aim of housing and such approach was obvious when the law expressly stated the permissibility of delegating State's lands for the projects of the Housing and Urban Development Corporation free of any charges.

11. Finally, the issue of property prices is of great significance for the poor who do own a property. In many cases where the States decides to invest in some areas or reorganize the use of lands in certain areas, property prices in such areas would typically rise. However, it was noted in a number of cases that information on such Governmental plans would be leaked to certain influential or connected people who would in turn acquire said lands from their original owners before the announcement of Governmental Plans. Therefore, both Transparency and Confidentiality as the case may require should be observed and the Government is encouraged to put in place mechanisms to stop such actions to ensure fairness and equal opportunities to all citizens.

Recommendations:

- 1. Expedite and complete actions from the Settlement of Lands in the entire Kingdom. This may also include simplifying the procedures for objections and appeals that would consume time and effort that are not available to the Poor.**
- 2. Increase awareness of the Poor of the Laws governing Property in order for the poor to make use of the rights extended under said Laws and on the other hand, protect their property against loss for non compliance with said Laws.**
- 3. Ensure Transparency on Government Plans that would typically affect the value of the Property in order to minimize Deception against the Poor by Influential Parties. In this Context the Map For Lands Use that was referred to in the Cabinet recent Decision in 2006 is a step towards the right direction and should be expedited.**
- 4. Put in Place mechanisms that ensure fairness to the poor and Women in the Settlement process of lands to ensure that the Poor, especially Women are not subjected to social pressure that would waive their rights as a result thereto. A possibility for this is to have as a precondition an Independent Assessment of the value of the Property before any Assignment of Right is affected (Takharouj).**
- 5. Encourage Public and Private initiatives that would enable the Poor to utilize their Property or the Property that they can acquire through the Management of State Property law, the Housing and Urban Development Corporation Law, the Jordan Valley Authority Law and the like.**