
LAND TITLING AND PROPERTY RIGHTS IN INDIA: NEED FOR A UNIFORM REAL ESTATE REGULATORY CODE

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ABSTRACT

India's land titling framework remains unstable and fragmented, continuing to undermine investor confidence, real estate development and public welfare. Despite reforms such as the RERA Act 2016, core structural deficiencies like including unclear land titles, legal ambiguities, inconsistent state regulations, and overlapping administrative mandates persist. The systematic flaws generate discretionary decision-making prolonged dispute resolution processes, and widespread mistrust among purchasers and developers. The paper argues that the absence of a unified national framework has hindered the creation of a transparent, reliable, and citizen-oriented property system. The way forward lies in a combined legal-institutional transformation that incorporates technological innovations such as blockchain-based registries and digital cadastres, alongside specialized mechanisms like Title Tribunals. A comprehensive framework that strengthens both urban development and rural land protection is essential to securing property rights. India is now positioned to transition toward an open, trustworthy, and investment-friendly land governance system that prioritizes transparency, efficiency, and the welfare of its citizens.

INTRODUCTION

The land titling systems and property rights frameworks are the basis of legal property regulations. In the official process, it is through land titling that there is recognition of ownership, as most state governments issue certain documents, for example, registered sale deeds or revenue records, to establish ownership¹. Property rights constitute legal recognition of binding claims that allow owners to control their land through possession rights and use rights; they also include transfer rights and the right to exclude others. In more developed legal systems, land titles start as affirmative ownership, wherein protection against all claims from third parties is extended to owners².

The legal and real estate sector requires accurate titles to maintain its integrity. The real estate sector gives a home through infrastructure and commercial development which depends on firm foundations of ownership rights. Unclear land titles put the risk at high stakes as real estate transactions reduce investor trust and boost a country's legal expenses³. Unclear property titles will also not allow the landowner to get credit by mortgaging the property, hence blocking financial flows and economic development. Urban area development processes face hindrances due to unclear property titles that do not let land pooling programs happen. Unclear ownership rights lead to disputes that cause delivery delays in large-scale projects harming homebuyers and tenants interest rights. Therefore, transparency in titling is an economic as well as a social requirement with impacts on housing costs, infrastructure funding, and fairness in urban development.

The current real estate regulatory framework in India operates through multi-layers of uncoordinated central and state laws which cannot be seen as getting adjusted to respond to issues pertaining to definitive land title resolution⁴. The Transfer of Property Act 1882, Registration Act 1908, Indian Easements Act 1882, Land Acquisition Act 2013, and personal laws about succession and transfer are the major legislative frameworks. RERA was a path-breaking move since it brought transparency plus accountability on the part of developers as well as agents but does not address the core issue of security with land titles. Diverse land

¹ *Harris, Kevin E.*, "A Guide to Land Titling," *Journal of Property Law*, Vol. 38 (2015): 221

² *World Bank*, "Ease of Doing Business Report: Registering Property – India," (2019)

³ *Kumar, Anuj*, "Uncertainty in Land Titling and Its Effects on Real Estate," *Economic and Political Weekly*, Vol. 49, No. 31 (2014): 4

⁴ *Narain, Vishal*, "Fragmented Legal Frameworks and Institutional Ambiguities," *Indian Journal of Land Management*, Vol. 3 (2017): 29

revenue codes and urban planning legislations at the state level where RERA rules are to be implemented compound problems in standardization of enforcement. The Digital India Land Records Modernization Programme (DILRMP) represents a digitization initiative yet overlapping land claims and obsolete survey data and institutional problems continue to exist⁵.

The present inquiry levels the legal contradictions through critical evaluation of land titling and property rights in India while also pinpointing the requirement for a real estate regulatory code that comprises state-guaranteed land titles. The study further argues that the inefficiency of the system in the Indian real estate sector is caused mainly by the absence of a uniform code and guaranteed titles. A single and codified legal framework would reconcile the state laws, give legal certainty, decrease the number of cases, and improve the rights of property to be enforced. Such a reform is not merely a necessity for legal congruence, but it is also the vehicle for economic development, urban governance, and the safeguarding of consumer rights in the booming real estate market of India.

HISTORICAL DEVELOPMENT

The real estate system in India is still a very complicated one due to the colonial legal framework which still governs the land ownership. The British established the zamindari and ryotwari and mahalwari settlement systems for tax administration but they did not give the farmers the rights of permanent land ownership. The Transfer of Property Act, 1882 set up a legal framework that covered property sales and mortgages along with leases and transfers of immovable property. This act provides regulations for property transfers among living persons without however, including provisions for title confirmation or official government ownership documentation. The Registration Act, 1908 only allows registration of property transactions but it does not give the right to absolute ownership since registration is only considered as transaction proof.⁶ The difference between registration and ownership rights still exists because the system allows record-multiple owners to be drawn into legal battles.

The Indian Easements Act 1882 fixes rights that are based on usage and they complicate the ownership rights further by weakening the absolute ownership rights and also creating property disputes. After independence, the Constitution of India gave power to the states to legislate on land which resulted in considerable dissimilarities in the land laws and practices between

⁵ Comptroller and Auditor General of India, *Performance Audit of DILRMP*, Report No. 17 (2021)

⁶ Registration Act, No. 16 of 1908, §§ 17–49

various states. The implementation of state-specific revenue codes and land reform acts along with efforts for land redistribution such as Maharashtra Land Revenue Code of 1966 and the Uttar Pradesh Zamindari Abolition and Land Reforms Act of 1950 provide certain recognition to tenure and landholder rights and also specify the alienation restrictions. Across the country, states in India went on to implement tenancy reform and land ceiling regulations during the 1950s and 60s, which in turn transformed property ownership frameworks. The redistributive justice interventions which wished to become social equity agents thus came to be causal factors in the fragmentation of land records.⁷

Various provisions of personal laws that have connection with succession and inheritance matter as from the Hindu Succession Act 1956 and the Muslim Personal Law (Shariat) Application Act 1937 are cited as the main causes of the obstacles for title ownership since they set different inheritance rules for religious communities and the gender.⁸ If the inheritance property is divided among the members of the family from one generation to another without going through the transfer process the ownership rights disputes will be created so that it will be very hard to clear the titles of the property. The Land Acquisition Act 1894 empowered the government to acquire private land for public purposes in a completely unrestricted manner while performing only superficial procedures that did not provide ownership documentation validation until 2013. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR) has laid down new rules which include titleholder recognition and participatory processes but the actualization of this has remained inconsistent.

The laws that govern urban development are the main tools that help decide on how the land resources will be utilized and managed.⁹ Urban planning rules like the Delhi Development Act of 1957 and the Karnataka Town and Country Planning Act of 1961 give the development authorities the right to alter the land classification and issue a construction permit that is in conflict with the revenue records. The titles that are granted by municipal authorities are often different from the ones revenue departments have in their records. The legal disconnect between the urban authorities and the revenue departments is the main reason for the growth of illegal settlements and the proliferation of informal sectors. The Digital India Land Records

⁷ Manoranjan Mohanty, "Inequality and Land Reform: A Study of Indian States," *Social Scientist*, Vol. 40 (2012): 66

⁸ Hindu Succession Act, No. 30 of 1956; Muslim Personal Law (Shariat) Application Act, No. 26 of 1937

⁹ M. Ramachandran, *Urban Planning in India: Legal and Institutional Frameworks*, CPR Policy Brief (2017)

Modernization Programme (DILRMP) that was started in 2008 mainly concentrated on the scanning of records as opposed to the verification of the titles or the unification of revenue and planning data.

The history of legislature dealing with land & property in India has shaped numerous disconnected systems which, in turn, hinder the creation of marketable titles of definite nature. Due to the continuous issues with presumptive titling and differences at the state level as well as multiple personal laws and institutional confusion, a single and final titling system is still very much needed.

CRISES OF LAND TITLING

The primary predicament arises as RERA does not get properly harmonized with state land administration and planning regulations.¹⁰ Several local municipal corporations and development authorities grant building plan approvals without conducting any checks of revenue records or title verification so that illegal constructions get consents. Therefore, as the state building codes and planning regulations do not get overridden by RERA registration, the local laws retain supremacy over RERA regulations. One of the reasons why RERA is now far from being an all-inclusive real estate legislation is a divided regulatory framework. States have implemented RERA under different directions, and some have diluted consumer protection laws and enforcement mechanisms.¹¹

The implementation of RERA stands in major difficulties because of the delayed constitution of Appellate Tribunals and inadequate staffing of regulatory bodies. Even while authorities are functioning well, the average delay in resolving grievances reduces the deterrent effect of the act. It makes a developer liable for prosecution for having misrepresented facts and for not delivering a project within time, but It goes no further to impose.

The property title disputes remain unresolved for long periods and are, therefore, problematic in nature, mainly because they entail multiple parties while accruing substantial legal expenses and enough hazards for transactions. In the absence of the central system of title guarantee, the buyers are required to undertake an exhaustive deed history search sometimes going back 50

¹⁰ Subramanian, Arvind, "Presumptive Title and Legal Uncertainty in India," *Harvard Kennedy School Working Paper Series* (2017).

¹¹ Ministry of Law and Justice, *National Litigation Policy Report*, Government of India (2018)

years.¹² It is a perfect environment for the criminals to carry out fraudulent sales in property; allowing multiple claimants to file competing claims and forged documents to be circulated with impunity. A survey by the Department of Land Resources showed that about 66% of civil litigation in India had an origin in property-related issues, most of which arose from disputes over titles.¹³ Delays and complications in property transactions normally delay individual sales, as well as the larger infrastructure development projects and housing construction.

An unidentified land ownership problem strikes at the heavily populated urban centers, equally to other areas. Informal settlements, unauthorized colonies, and public land encroachments are all manifestations of unclear or unverified titles. A fragmented environment of urban land governance has sprung into being on account of multiple jurisdictional overlaps existing between development authorities and municipal corporations and revenue departments. Usually, the developers start projects without checking whether the land title is legal, thereby putting their customers at risk and dragging on with litigation for years. The real estate industry has been demanding land titling reforms to purify transparency and investment needs, mainly concerning housing finance and foreign direct investment.

The Digital India Land Records Modernization Programme (DILRMP), set in 2008 for the purpose of digitizing and modernizing land records, has failed in ensuring clear title ownership. The program mostly involved scanning and computerizing existing records, many of which are outdated, inaccurate, or incomplete. Without the necessary legislative backing that transforms India's presumptive doctrine, digitization cannot provide definite legal assurance.

RERA AND ITS GAPS

The Real Estate (Regulation and Development) Act 2016, commonly known as RERA, came into existence to place the Indian real estate market on the pillars of transparency, consumer protection, and accountability. On this premise, the projects and real estate agents are to be registered under RERA in the respective State Real Estate Regulatory Authorities, thus bringing in a legal recourse in a hitherto unregulated sector.¹⁴ By means of this Act, all

¹² Vaidya, Chetan, "Title Due Diligence in Indian Real Estate," *Journal of Real Estate Law and Practice*, Vol. 11 (2019): 115

¹³ Department of Land Resources, *Status Report on Land Records and Litigation*, Ministry of Rural Development (2021)

¹⁴ Ministry of Housing and Urban Affairs, *Handbook on Real Estate (Regulation and Development) Act, 2016*, Government of India (2019)

information in relation to the land ownership status of the project, all approvals, time limits for completion, and all developer details must be disclosed by the builder so as to lessen the information asymmetry which generally occurs between developer and buyer. Under RERA, by way of one of the essence of the Act, title information in relation to the land of the construction site has to be provided. The law only requires declaration of the land titles but remains silent as to any guise for the verification of such land titles.¹⁵

RERA's framework fails to address land title certainty because the law only controls project execution and developer duties. The legal title deed submission requirement under Section 4(2)(l)(B) of RERA lacks an enforcement process to determine if the title remains free from encumbrances and disputes. Developers have frequently initiated projects on disputed or encumbered land which resulted in project delays together with cancellations or litigation. The absence of title verification processes under RERA makes homebuyers believe their legal rights are protected.¹⁶ RERA authorities avoid handling title disputes because these cases fall outside their authorized civil court jurisdiction.¹⁷

The main challenge arises because RERA does not align with state land administrative codes and planning legislations. Multiple municipal corporations, along with the development authorities, give the building plan approvals without carrying out checks on revenue records or verification of titles that would otherwise lead to illegal approvals of constructions. The local laws are given precedence over regulatory RERA provisions on the ground that both state building codes and state planning regulations do not get overridden by way of RERA registration. This divided regulatory framework makes it increasingly difficult for RERA to be recognized as a comprehensive real estate law. Various states have undertaken RERA differently, with several states adopting poor consumer protection laws and weaker enforcement mechanisms.

RERA's implementation suffers from significant obstacles in the delay in the setting up of Appellate Tribunals and a lack of personnel in regulatory bodies. Even when regulators are operational the average time in which to settle such grievances is longer than average and this duration eliminates the disincentive effect of the Act's application. Even though the Act

¹⁵ Jain, Ruchi, "Legal Ambiguity in Land Title Disclosures under RERA," *Indian Law Review*, Vol. 3 (2021): 88

¹⁶ Consumer VOICE, "How Safe Are Buyers Under RERA?" *Consumer Protection Bulletin*, Vol. 7 (2020): 11.

¹⁷ Lok Sabha Standing Committee on Housing and Urban Affairs, *Seventh Report on Functioning of RERA*, March 2021

penalizes developers acting on false representations combined with the delay of a completed project it does not define a solution to the lack of validity of the title of the real estate involved. Moreover, the system displaces buyers to civil courts for title disputes and takes away the opportunity for using real estate adjudication. The disintegration of land records, registration systems, planning can be regarded as a major regulatory gap that needs serious legal and institutional remedies.

NEED FOR UNIFORM REAL ESTATE LAWS

Governance is fragmented as a result of the various real estate laws in Indian states. Investors, developers, and consumers find it challenging to navigate the regulatory framework due to the complex system created by the absence of consistent legal standards. Approval procedures are further delayed by jurisdictional ambiguities caused by conflicting provisions between state revenue codes and urban planning laws. Regulatory compliance varies greatly because every state has its own land revenue codes and planning authority procedures.¹⁸

In land-use governance, several regulatory agencies including revenue departments, development authorities, municipal corporations, and pollution control boards function autonomously. Rent-seeking behavior is frequently encouraged by this disjointed system, which also leads to inefficiencies, delays project execution, and bureaucratic red tape. More than 30 agencies, each with its own interpretation of the mandate, require developers to obtain approvals. In addition to facilitating regulatory arbitrage, the lack of standardized regulations impairs accountability in real estate transactions.¹⁹

A uniform framework for zoning dispute resolution, ownership transfers, and land titling could be established by the adoption of a Uniform Real Estate Regulatory Code (URERC). The URERC would streamline real estate administration across the country, improve transparency, and reduce regional disparities by standardizing regulations.²⁰ The Goods and Services Tax's (GST) success shows how cooperative federalism can strike a balance between state-level autonomy and national uniformity; this model may make it easier for lawmakers to adopt the

¹⁸ Ramesh Ramanathan, *Urban Governance in India: Case Studies and Institutional Design*, Oxford University Press 2018

¹⁹ Harish Narasappa, *The Dysfunctional State: Understanding the Indian Judiciary*, Oxford University Press 2022.

²⁰ Ministry of Housing and Urban Affairs, *Draft Model Tenancy Act and Real Estate Reforms*, Government of India (2021)

URERC.²¹

Additionally, economies of scale would be made possible by a single regulatory framework, which would make it easier to integrate cutting-edge land governance technologies. Although digital record-keeping has improved thanks to the Digital India Land Records Modernization Programme (DILRMP), interoperability between states is hampered by a lack of standardization. Blockchain technology provides a revolutionary way to stop fraud and duplication in land records because of its decentralized and impenetrable architecture. Although current implementations are limited to isolated state systems, pilot projects in Andhra Pradesh and Maharashtra have demonstrated its viability.²² A national legal framework could establish uniform standards for technological innovations which allow secure and verifiable title data to be shared across all parts of India.

When all states have the same set of rules, buyer rights are better safeguarded and there are fewer administrative obstacles that a complicated regulatory framework could impose on those conducting business in the real estate sector. Congregated due diligence and execution costs for developers are reduced when compliance is uniformly regulated. Because it helps to mitigate the risk of potentially ambiguous property titles and bureaucratically ambiguous regulations, the regulation conformation process fosters investor trust.

In an effort to standardize documented elements of India's land and property law system, a Uniform Real Estate Regulatory Code is a crucial piece of legislation for national real estate regulations. Legal certainty, digital transformation, and equitable land access are all unlikely to materialize in the absence of a unified framework.

RECOMMENDATIONS

Restructuring laws and policies to allow for a full legal change of land title rather than relying solely on presumptions, which only grant temporary rights that are always subject to challenge, is the first step in solving the issue of Indian land and property rights.

To reduce the number of legal disputes and the delays that come with any real estate transaction, the legislature must embrace the simple title guarantee systems of a state verified ownership

²¹ Rahul Mehrotra, *Planning for India's Urban Future*, Routledge 2022

²² *Digital India Land Records Modernization Programme (DILRMP)*, Government Report (2020).

guarantee system, such as the Australian Torrens system.²³

The National Real Estate Code, a flexible statute based on Article 252, must be developed. It would incorporate all federal and state land use laws, including titling regulations, registration requirements, building laws, tenant requirements, and dispute resolution, into a single bill. The goal is to create a uniform legal framework that unifies all state land revenue laws, municipal laws, and other central frameworks, such as the Model Tenancy Act and the Real Estate (Regulation and Development) Act of 2016, into a workable, enforceable legal system backed by a central regulatory and governance body.²⁴

There should be a Land Title Tribunal and an Appellate Property Board, among other organizations, to improve land dispute resolution and title rectification. This lessens the strain on the legal system and offers knowledge to resolve complex ownership disputes. These quasi-judicial procedures will need to be implemented at two levels, requiring authorities to review boundary disputes and make changes to title registers. Only a few approved appellate bodies should be able to review their orders.²⁵

Additionally, public education initiatives aimed at rural and semi-urban populations—who are frequently ignorant of land documents and the registry process, which can easily result in inaccurate and misleading information—will need to continue as part of institutional reform. In order to facilitate citizen participation in title verification and inquiries about title grievances, the state will need to collaborate with non-governmental organizations, legal aid groups, and local government agencies to develop regional language workshops, model forms and folder methodologies, and electronic portals.

Finally, technology should be integrated into online record-keeping and service delivery. In addition to using a single digital platform that combined litigation databases, surveys of title maps, and land records, the user would keep track of land disputes, registry, and litigation status.²⁶

²³ Bhumika Muchhala, “India’s Presumptive Land Titling System: Legal Uncertainty and Reform Imperatives,” 47 INT’L J. PROP. L. 233 (2020).

²⁴ Rohan D’Souza, “The Torrens Model and India’s Need for Title Assurance,” 9 CAMBRIDGE J. L. & POL’Y 114 (2021).

²⁵ Priya Venkatesan, “Towards a National Real Estate Code: Cooperative Federalism in Action,” 36 NAT’L L. SCH. J. 88 (2022).

²⁶ Ravi Pandey, “One Nation, One Land Record: Leveraging Technology for Legal Clarity,” 11 J. INDIAN TECH. POL’Y 97 (2023).

CONCLUSION

Due to its instability and fragmentation, the Indian land titling system still poses challenges to investor confidence, real estate development, and public welfare. Fundamental problems with unclear property titles, legal ambiguities, and regulatory conflicts that vary by state have not been resolved by RERA 2016 or other legislative reforms. In the absence of a single, codified plan, the system permits capricious judgments, excessively drawn-out dispute resolution procedures, and mistrust among purchasers. A Uniform Real Estate Regulatory Code in conjunction with a definitive title system can address the current systemic issues.

Adopting this change would create a uniform set of protocols for all states, reaffirming the federal government's and its states' cooperative governance principles and guaranteeing equitable economic justice.

Although judicial responses have been beneficial, the absence of legislative and executive involvement in property law matters cannot be made up for by this focus on judicial supervision. Building on technological advancements like blockchain and digital cadastres, as well as institutional reforms like Title Tribunals, will be the way forward. A comprehensive legal framework that promotes both urban development and rural area protection is necessary for property rights. India is ready to create an open property system that welcomes investment and puts its citizens first.