

Comparative Analysis of the Mechanism of Good Faith in Property Registration Law: A Perspective of the Legal Systems of the United States and Iran

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Abstract

The conflict between ordinary (unregistered) and official deeds in immovable property transactions represents a long-standing challenge within the Iranian legal system, stemming from historical developments and structural complexities in its registration laws. This paper, revised to address specific scholarly critiques, provides a comprehensive analysis of this issue. It distinguishes between the “property registration” system (sabt-e amlak) and the “document registration” system (sabt-e asnad) and examines the evolution of Iranian registration law through three historical “renaissances,” culminating in the 2024 “Mandatory Registration of Immovable Property Transactions Act.” The study delves into the role of key legal provisions, including Articles 46, 47, 48, and 117 of the Registration Act, and analyzes the pivotal Supreme Court Unanimity Verdict No. 43, which has shaped judicial precedent for decades. Furthermore, it explores the often-overlooked intersection of good faith with the legal status of “persons barred from transactions” (ashkhas-e mamnu' al-mu'amila). Through a comparative lens with the U.S. bona fide purchaser doctrine, the paper assesses Iran's legislative solutions. The findings indicate that the 2024 Act marks a definitive shift towards formalism, establishing a constitutive effect for official registration. While it offers explicit protection for third parties in good faith during a transitional period, its primary long-term impact is to resolve the conflict by invalidating unregistered claims, thereby fundamentally altering and diminishing the future role of good faith in property disputes and prioritizing legal certainty above all.

Keywords: conflict of deeds; good faith; Iranian property registration law; U.S. property registration law; Mandatory Registration Act; Unanimity Verdict No.; persons barred from transactions.

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