Real Rights Code, Law No. 39-08

Reference: Law No. 39-08 enacted by Dahir No. 1-11-178 of 22 November 2011

Practice areas: Real estate and land law, Estates and inheritance

> The Real Rights Code brings together the rules on ownership of real estate and other rights over property: usufruct, easements, mortgages, joint ownership, the right of pre-emption (chefaa) and gifts. It applies to both registered and unregistered property. This is an unofficial explanatory note; only the Arabic text published in the Official Bulletin is authoritative.

Who this law applies to

The Code concerns any owner, buyer, heir, co-owner or creditor who holds or claims a right over property in Morocco. For registered property, it operates alongside the land registration legislation, which prevails where it contains a special rule.

The key rules

- Transactions that transfer, create or modify a real right over property must be made by authentic deed (adouls or notary) or by a deed with a certain date drawn up by a lawyer admitted before the Court of Cassation (Article 4), failing which they are void.
- Ownership gives the owner the right to use, enjoy and dispose of the property, within the limits set by law.
- Where property is held jointly, each co-owner may in principle request partition, and the others may in some cases exercise a right of pre-emption (chefaa) when a share is sold to an outsider.
- A gift of real estate (hiba) is subject to its own formalities and taking-possession requirements.
- For unregistered property, peaceful and continuous possession may establish ownership under the conditions set by the Code.

Key deadlines and figures

- The right of pre-emption (chefaa) must be exercised within short time limits, running in particular from notification or knowledge of the sale.
- The length of possession required for unregistered property varies according to the relationship between the possessor and the owner.

- Powers of attorney concerning property rights must also be in authentic form since the 2017 reform.
- Every entry on a land title must follow the deadlines and formalities of the land registry.

What it means in practice

A simple private agreement is not enough to buy, sell or give away property: you must use a notary, adouls or a qualified lawyer. This rule protects against dubious sales and fraud.

For heirs, the Code provides the tools to end joint ownership, sell a share or exercise a right of pre-emption, situations that frequently arise after an estate is opened.

Reforms and recent developments

The Code was enacted in 2011, the same year as Law No. 14-07 on land registration. It was amended in 2017 as part of the fight against property fraud, notably to require authentic form for powers of attorney concerning property rights.

When to consult a lawyer

Before buying unregistered property, in a dispute between heirs over jointly owned property, to exercise or contest a right of pre-emption, or if you suspect a deed has been fraudulently drawn up over your property.

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