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Real Estate Alienation Contracts in Uzbekistan: Rethinking Property Definition, Notarial Requirements, And Purchaser Protection

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Abstract: This article examines three linked problems in Uzbekistan's law on real estate alienation contracts: the absence of a clear definition of "real estate" covering unfinished construction, inconsistent rules on when notarial certification is required, and the lack of a bona fide purchaser (registry-reliance) rule found in systems like Germany and England. A fourth problem, remote video-identification contracting, is treated as an extension of the registry-reliance issue. Drawing on comparative law from Germany, England, France, Estonia, Russia, and Kazakhstan, the article proposes concrete statutory language adapted to Uzbekistan's legal tradition.

Keywords: Real estate alienation contracts, notarial certification, state registration.

Introduction: Real estate transactions sit at the intersection of private autonomy and public control more visibly than almost any other category of civil-law contract: a sale of an apartment or a plot of land is, in form, a bilateral agreement between two private parties, yet it is typically mediated by a notary, verified against a state registry, and in Uzbekistan as elsewhere subject to specific rules that a general contract of sale does not need. Since 2017 the Republic of Uzbekistan has pursued a broad reform of this area, concentrated mainly on institutional questions: digitalizing the cadaster, consolidating notarial and registration functions, and expanding electronic public services. These reforms have produced measurable results, including a marked improvement in Uzbekistan's "Registering Property" score under the World Bank's former Doing Business methodology during 2017–2020. What has moved more slowly is the substantive legal framework underneath these institutions — the rules that tell a notary or a registrar what "real estate" actually is, when notarial form is mandatory, and whose interests the law protects when the registry itself turns out to be wrong. This article addresses that layer directly, treating institutional reform as necessary but not sufficient, and asking what a coherent set of substantive rules would need to contain.

LITERATURE REVIEW

The definition of immovable property has long been recognized in comparative civil-law as a deceptively difficult problem precisely because it sits at the boundary between physical fact and legal construction. Zweigert and Kötz, in their classical survey of the civil-law and common-law families, observe that continental systems built on the Roman distinction between movables and immovables tend to resolve borderline cases — buildings under construction, fixtures, structures on leased land through a mixture of statutory definition and accessory-property doctrine rather than through a single exhaustive list [1]. Van Erp and Akkermans, compiling comparative materials on European property law, make a related point: jurisdictions that treat land and buildings as a single legal object (the superficies solo cedit principle found in Germany and, with variations, in Uzbekistan) face a sharper version of the unfinished-construction problem than jurisdictions that allow separate ownership of land and structures, because the object of the transaction cannot be neatly separated from the land it stands on until construction is complete [2]. This literature is directly relevant to the first problem examined below: Uzbekistan inherited the solo cedit logic from Soviet and, before that, continental civil-law tradition, which means that an unfinished building cannot simply be treated as a movable chattel pending completion, yet the Civil Code does not say clearly what it should be treated as instead.

On the question of mandatory notarial form, the comparative literature draws a broadly recognized distinction between "Latin notary" systems — Germany, France, and most of continental Europe, including the post-Soviet states where a notary performs an active legal-verification function before certain transactions can take legal effect, and Anglo-American systems, where a solicitor or conveyancer performs a similar function but without the notary's independent, state-delegated authority [1]. The comparative point that matters for this article is narrower and more practical: regardless of which transactions a given system chooses to notarize, virtually every mature Latin-notary jurisdiction expresses that choice as a single, exhaustive rule rather than as a set of scattered references across multiple statutes a design feature that Uzbek legislation, as discussed below, currently lacks.

The third strand of literature concerns the protection of purchasers who rely in good faith on inaccurate registry data. Two distinct comparative models dominate the discussion. The German model, codified in BGB §892, attaches a presumption of accuracy to the entries of the Grundbuch: a person who acquires a right to land relying on the register is protected even if the register later proves incorrect, unless an objection to the accuracy of the entry has been recorded or the acquirer knew of the inaccuracy [3]. The English model, built around the Land Registration Act 2002, achieves a broadly similar practical result through the doctrine of title by registration: registration is not merely evidence of title but the source of it, so that a registered proprietor's title is guaranteed by the state subject to a narrow set of overriding interests, with an indemnity scheme compensating anyone who suffers loss from a rectification of the register [4], [5]. Carruthers's comparative analysis of the English Act against the Australian Torrens system underlines that the practical strength of any title-registration system depends less on the elegance of its doctrinal label than on the width of the exceptions carved out of it and the reliability of the accompanying compensation fund [4]. Dixon's work on title guarantee and indefeasibility makes the further point, relevant to any jurisdiction designing such a rule from scratch, that a registry-reliance rule and a state indemnity mechanism are not substitutes for each other but complementary halves of the same institutional choice: reliance protection without a funded indemnity shifts all registry risk onto whichever private party loses the resulting dispute, while an indemnity fund without a clear reliance rule leaves purchasers unable to predict when they may safely rely on the register in the first place [5].

Estonian and Georgian practice, finally, offers the clearest available example of what a fully integrated digital registration and notarial system looks like in a post-Soviet legal environment comparable to Uzbekistan's own starting point. The European Commission's account of the Estonian e-Notary system describes an architecture in which notarial acts, the land register, and other public registers exchange data in real time through the X-Road interoperability platform, allowing a notarial transaction to be verified and registered within the same electronic session rather than as two sequential administrative procedures [6].

Uzbek legal scholarship has engaged actively with adjacent aspects of this subject. Recent work published through national research platforms has examined civil-law liability for violations of real estate ownership rights and the specific features of the real estate sale contract under the Civil Code, both of which confirm from a domestic doctrinal perspective that the practical application of general contract-of-sale rules to real estate continues to raise open questions that the legislature has not fully resolved [7], [8]. The present article builds on this domestic literature by connecting it more systematically to the comparative models summarized above and by translating the resulting analysis into concrete legislative language.

METHODS

The analysis rests on three complementary methods. First, a formal-dogmatic (legal-technical) method was applied to the current text of the Civil Code of the Republic of Uzbekistan (Part Two), the Land Code, the Housing Code, the Law "On Notariat" and the Law "On State Registration of Rights to Real Estate" in order to establish precisely how each act defines its subject matter and where the resulting definitions and procedural requirements fail to align with one another. Second, a comparative-legal method was used to examine the corresponding rules of Germany, England and Wales, France, Estonia, Russia, and Kazakhstan jurisdictions selected because they represent, respectively, the codified public-faith model, the title-by-registration model, the classical Latin-notary model, an advanced post-Soviet digital-registration model, and two immediately comparable post-Soviet civil-law systems with which Uzbek law shares a common doctrinal ancestry. Third, a functional method was applied throughout: rather than asking whether a given foreign institution could be transplanted into Uzbek law in its original form, the analysis asks what practical function the institution performs (for example, allocating the risk of registry error) and how that same function might be performed within the structure of Uzbekistan's existing Civil Code. The resulting proposals were then tested for internal consistency against the general part of the Civil Code to avoid introducing a rule that would conflict with existing doctrine on good faith, restitution, or state liability.

RESULTS AND DISCUSSION

The Civil Code of the Republic of Uzbekistan, like most codes in the continental tradition, opens its treatment of property with a working idea of what counts as immovable — land, subsoil plots, and objects firmly connected to land such that their relocation without disproportionate damage to their purpose is impossible but this idea is not stated as a single controlling definition applied consistently across the legal system. Instead, the Land Code, the Housing Code, and the special legislation on state registration each work with their own, partially overlapping formulations tailored to their own subject matter. In ordinary transactions involving a completed house or apartment, this fragmentation rarely causes practical difficulty, because the object plainly satisfies every available definition at once. The difficulty becomes concrete, and increasingly common, in transactions involving objects under construction — a house whose walls stand but whose roof is not yet finished, an apartment sold "off-plan" before the building it belongs to has been put into operation.

Whether such an object is real estate at all if so, whether it can lawfully be the subject of an alienation contract before construction is complete and the object is registered, is a question the Civil Code does not answer directly. In practice, notaries and registrars have developed divergent working solutions: some treat an unfinished object as real estate only once a certain threshold of construction readiness is reached and a corresponding technical passport has been issued, while others decline to certify any transaction involving an unfinished object and require the parties to structure the arrangement instead as a contract for future construction or an assignment of rights under a construction agreement. Both solutions are defensible improvisations, but neither rest on a clear statutory basis, and the resulting inconsistency is precisely the kind of legal uncertainty that a purchaser financing an off-plan apartment with a mortgage, or a bank extending that mortgage, cannot easily price into a transaction.

The comparative material reviewed above suggests that this is not a uniquely Uzbek difficulty it is the price every solo credit jurisdiction pays for treating land and buildings as a single object but it is a difficulty that mature systems have chosen to resolve explicitly rather than leave to administrative practice. The most workable response available to the Uzbek legislature does not require abandoning the solo credit principle. It requires, instead, inserting into the general provisions on real estate in the Civil Code a definition that expressly covers construction-in-progress, tying the moment at which an unfinished object becomes capable of independent legal turnover to an objective, verifiable criterion (for example, the completion of the load-bearing structure and roof, confirmed by a technical inventory document) rather than to the subjective judgment of the notary handling a given transaction. A provision along these lines might read: "An object of construction that has not been put into operation is deemed real estate and may be the subject of an alienation contract in the form of a right in an unfinished construction object from the moment its load-bearing structures and roof are completed and this fact is confirmed by a document of technical inventory, without prejudice to the subsequent registration of the completed object as a building or structure once construction is finished." A rule of this kind does not import a foreign institution; it simply gives statutory form to an objective criterion that Uzbek administrative practice has already been groping toward on its own.

A second, related uncertainty concerns the boundary between transactions that require mandatory notarial certification and those for which a simple written contract, filed for state registration, is sufficient. Uzbek legislation does contain rules addressing this question, but they are distributed across several instruments rather than consolidated in one place: the Civil Code sets out general requirements for the form of transactions; separate provisions address the alienation of shares in common shared ownership; still other provisions, scattered across guardianship and family legislation, impose notarization requirements when a transaction touches the property interests of a minor or a ward. A notary or a party to a transaction who wants a complete picture of when notarization is mandatory must therefore consult several separate legal acts and reconcile them, and the criteria used across these acts are not always expressed in parallel terms, which leaves room for differing interpretations of borderline cases, for instance, a sale of a share in an apartment jointly owned by spouses where one spouse is also a co-owner of an inheritance share belonging to a minor child.

The comparative literature on Latin-notary systems is useful here less for the substance of any particular foreign rule than for its formal structure. Whatever a given jurisdiction decides about which transactions require notarization, the decision is almost always expressed as a single consolidated provision or a short, closed list, precisely because unpredictability about form requirements is one of the most disruptive kinds of legal uncertainty a transacting party can face a defect discovered after the fact can render the entire transaction void, not merely voidable. The legal framework of Uzbekistan would benefit from the same formal discipline without needing to adopt any particular foreign substantive rule. The most direct solution is to introduce into the Civil Code, within the chapter governing the form of transactions with real estate, a single article containing an exhaustive list of the categories of real estate transactions subject to mandatory notarial certification, cross-referencing rather than duplicating the substantive grounds found in guardianship, family, and common-ownership legislation. Transactions not appearing on this list would be understood, by the structure of the provision itself, to require only simple written form followed by state registration. This kind of consolidation is a modest legislative-technique reform rather than a substantive policy change, but its practical effect on legal certainty, and on the workload of notaries and courts asked to resolve disputes about form would likely be disproportionate to its technical simplicity.

The most consequential gap identified in this analysis concerns the position of a purchaser who acquires real estate in good faith, relying on the data contained in the state registry, only to discover later that a prior link in the chain of title was defective — for example, because an earlier transaction was concluded on the basis of a forged power of attorney or was later invalidated by a court. The Civil Code of Uzbekistan contains a general institution of vindication (the recovery of property from an unlawful possessor) and a general doctrine of good faith, but it does not contain a real-estate-specific rule that tells such a purchaser, in advance, whether reliance on the registry itself will be sufficient to defeat a subsequent vindication claim brought by an earlier, dispossessed owner. In the absence of such a rule, Uzbek courts resolve these disputes case by case using the general vindication provisions, which were not drafted with the specific evidentiary posture of registered real estate in mind and which, in most post-Soviet civil codes including Uzbekistan's, still allow an owner to recover property from a good-faith acquirer in a meaningful range of circumstances, including where the property left the original owner's possession against that owner's will.

This is precisely the gap that the German public-faith rule and the English title-by-registration doctrine were each designed, through different doctrinal routes, to close. Both models start from the same practical insight described in the literature review: a land registry that the state maintains and that private parties are required, as a practical matter, to consult before every transaction is only useful if reliance on it carries legal consequences. If a purchaser must independently verify the entire chain of prior title regardless of what the registry says, the registry's evidentiary function is largely symbolic, and the cost of that verification — legal fees, delay, and residual risk is passed on to every transaction in the market, not merely to the rare transaction that turns out to be defective. Neither the German nor the English approach can be transplanted into Uzbek law without adaptation: the German rule operates within a registration system that has been built, refined, and litigated over more than a century, and the English indemnity scheme is funded through a dedicated, historically established mechanism that Uzbekistan does not yet have. What can be adapted, however, is the underlying two-part structure common to both models: first, a substantive rule that a good-faith acquirer who relies on the registry at the time of acquisition, and who has no reason to doubt the accuracy of the registry data, acquires a protected right even if an earlier entry later proves defective; and second, a compensation mechanism, funded through the state budget or through registration fees collected for this purpose, that indemnifies the original owner who is displaced by the operation of this rule, rather than leaving that owner without any remedy at all.

A provision reflecting this structure might be formulated as follows: "A right to a real estate object registered in the name of a person in the state register shall pass to a person who acquires it from that registered person in good faith, if, at the moment of obtaining an extract from the register, there were no grounds to doubt the accuracy of the data contained in it. A rights-holder who suffers loss as a result of an error in the maintenance of the register shall be protected through compensation from the state in the manner established by law". This formulation deliberately shifts the locus of dispute from a contest between two private parties — the original owner and the good-faith purchaser, neither of whom is typically at fault toward a claim against the state body responsible for maintaining accurate registry data, which is both fairer, since the state controls the accuracy of its own registry in a way that neither private party does, and more consistent with the direction Uzbekistan's registration reforms have already been moving. As the underlying analysis notes, a rule of this kind would also be expected to reduce the volume of disputes arising from chains of resale a category of litigation examined in more detail in a companion analysis of Uzbek judicial practice and to lower transaction costs across the real estate market generally, since purchasers would no longer need to independently investigate the entire prior history of a title in every transaction.

The fourth problem examined in this article follows directly from the third. Uzbek civil legislation has, in general terms, already recognized electronic document circulation and the electronic digital signature as legitimate instruments of civil turnover. What it has not yet done is extend this recognition consistently to real estate alienation contracts specifically, which in current practice still require the physical presence of the parties before a notary or a registration official. A remote, video-identification-based transaction is only as trustworthy as the registry and identification infrastructure behind it, if a notary or registrar cannot verify a party's identity and legal capacity with confidence through a screen, and cannot verify the current legal status of the object in real time through an integrated registry, remote contracting simply relocates the risk of fraud rather than eliminating it.

Estonia's e-Notary system, described in the literature review, is instructive precisely because it demonstrates that remote real estate contracting became reliable only after not before notarial, cadastral, and civil registry data were integrated into a single real-time interoperable platform [6]. Georgia's experience with a broadly comparable digital registration architecture points in the same direction. For Uzbekistan, which has already made significant progress digitalizing its cadaster and registration systems but has not yet completed the deeper integration these examples suggest is necessary, the appropriate legislative response is a staged one rather than a single sweeping authorization of remote contracting for all real estate transactions. A first stage would complete the real-time data exchange between notaries, the registration authority, and the cadastral service, so that the legal status of an object the presence of a mortgage, a prohibition on alienation, or a seizure can be verified automatically at the moment a transaction is certified rather than through a separate manual inquiry. A second stage would permit remote, video-identification-based contracting on a pilot basis for a defined, lower-risk category of transactions, for example, transactions between close relatives or transactions below a specified value threshold, allowing the notarial and registration authorities to build confidence in the reliability of remote identification before extending it further. A third stage, contingent on the results of the pilot, would extend the mechanism to a broader range of real estate transactions. This staged approach mirrors the general lesson of the comparative material reviewed above: digital transaction models are not a substitute for registry reliability but a consequence of it, and legislating remote contracting ahead of the underlying data integration would risk creating exactly the kind of unverifiable transaction chain that a registry-reliance rule is meant to prevent.

CONCLUSION

The analysis presented in this article suggests that the principal obstacles to a fully coherent Uzbekistan's law of real estate alienation contracts are not, at this stage, primarily institutional. Uzbekistan has already built much of the administrative infrastructure: a digitalizing cadaster, a consolidating notarial and registration function, an expanding electronic public-services portal that a modern real estate law requires. What remains incomplete is the substantive layer of civil legislation that gives this infrastructure legal content: a single definition of real estate that resolves the status of unfinished construction, a consolidated statement of which transactions require notarial form and most importantly, a registry-reliance rule that tells a good-faith purchaser in advance what legal protection the state's own registry data actually carries. The comparative review of German, English, French, Estonian, Russian, and Kazakh practice presented here does not point toward the wholesale transplantation of any single foreign model; each of these systems arrived at its current rules through its own doctrinal history, and the legal system of Uzbekistan does not share that history. It does point, however, toward a shared underlying logic that legal certainty in real estate transactions depends on making a small number of foundational questions answerable in advance, from a single statutory source, rather than leaving them to be worked out transaction by transaction in notarial and judicial practice. The three specific provisions proposed above are offered as a scientific, draft-stage contribution toward that goal, intended for further legal-technical elaboration by the competent state bodies rather than as finished legislative text, and their adoption would be expected to reduce both the volume of resale-related litigation and the transaction costs currently borne by ordinary buyers and sellers in the Uzbek real estate market — a market whose continued growth makes the cost of leaving these questions unresolved progressively higher.

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