

**GOVERNMENT OF GOA**

**LAW COMMISSION**

**Report on Land Titling**

**Report No. 22**

**March 2012**

**LAW COMMISSION, GOA**

**(REPORT No. 22)**

**Report on Land Titling**

**Forwarded to the Chief Minister, Government of Goa by Shri Ramakant D. Khalap, Chairman, Law Commission, Goa on the 25<sup>th</sup> day of March 2012.**

**The 2nd Law Commission constituted by Government of Goa for a period of one year (Order No. 9/5/2008-LA/100 dated 20<sup>th</sup> January 2009) and further extended for two years w.e.f. 06/04/2010 (Order No. 22/1/2010-LD(Estt.)/LC/530 dated 05/04/2010).**

**The Commission consists of the Chairman, and the two Members.**

**Chairman**

**Shri Ramakant D. Khalap**

**Members**

**Shri Cleofato Coutinho**

**Shri Mario Pinto Almeida**

**The Law Commission is located at B S/1, 3<sup>rd</sup> Floor, Paraiso de Goa, Porvorim-Goa.**

**The text of this Report is available on the internet  
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**Any enquiry relating to this Report should be addressed to the  
O.S.D. to Chairman/ Acting Secretary and sent either by post to the  
Law Commission, B S/1, 3<sup>rd</sup> Floor, Paraiso de Goa, Porvorim-Goa or  
email to [chairman-glc.goa@nic.in](mailto:chairman-glc.goa@nic.in) or [rdkhalap@rediffmail.com](mailto:rdkhalap@rediffmail.com)**

## Report

The older generations of Goans recall with nostalgia the old Portuguese system of maintaining Land Records- a near perfect system which establishes conclusive title to the land. Under this system no conveyance of immovable property was possible unless the transferor could establish the flow of title through the records maintained under different registers.

The old Portuguese regime had established records ward wise and village wise. These records called the Matriz records provided information about topography, nature and quantum of produce of crops and identification of the property with the names of the owners of the properties forming the boundary of the unit of land.

The said regime had also undertaken Cadastral Survey of several villages and the records are available with the Directorate of Land Survey.

Under the old Registration Act every unit of property was described by its Land Registration number in Book B and the ownership of the said unit of property was inscribed in Book G. Similarly, encumbrances and changes were recorded in Book F and mortgages and other rights in Book C maintained under the Code of Land Registration.

With the liberation of Goa, the transfer of Property Act, The Stamp Duty Act, and Registration Act were extended to Goa. Conveyance of property is now done through Conveyance Deeds which are registered under the Registration Act and Stamp Duty corresponding to the market price of the property conveyed calculated as per the Stamp Duty Act is paid thereon. The Transferee now gets the original Deed of Conveyance which through he hopes to be his ultimate proof of Title does not in effect establish conclusive title.

After the liberation, The Land Revenue Code 1968 was enacted. The Government undertook Survey of lands in all Revenue Villages. Properties are now identified by survey numbers and their sub divisions. Record of Rights were prepared in Form No. I and XIV in the Revenue Villages and in Form B in City Survey Records. While this massive

exercise was undertaken by the Government, the records maintained by the old Portuguese regime were totally neglected. The Record of Rights establish only a prima facie title as per the entries in the various columns in Form No. I and XIV or Form B.

Elsewhere in the Country, the issue of establishing conclusive title to the properties has also been plaguing the general public. The Ministry of Urban Development Government of India had circulated a Model Bill called Land Titling Bill to establish a system of conclusive Land Titling throughout the Country.

We decided to amalgamate the records prepared under the old regime. with Survey Records prepared under the Land Revenue Code 1968 and put in place a system through authorities like Land Titling Authority and Land Titling Tribunal contemplated under the Model Bill which would ensure a conclusive title to land. We have adopted the concept of unique property identification number for each unit of property which should correspond to each Survey number and its sub division.

Upon enactment of the Bill proposed herewith and its implementation, the present system of Conveyance Deeds and their registration will no more be in vogue. The Land Records maintained in Book B, C, F, and G coupled with the Unique Identification Number will establish flow of Title to the properties.

Goa can be the first State in the Country to usher in a new regime of land records and conclusive land title by adopting our report.

## **RECOMMENDATIONS**

**We therefore recommended that The Land Titling Bill as per the Draft Bill annexed be enacted in the Legislative Assembly of Goa.**

**We recommend accordingly.**

**(Ramakant D. Khalap)**

**Chairman**

**(Cleofato Coutinho)**

**Member**

**(Mario Pinto Almeida)**

**Member**

## **THE GOA LAND TITLING BILL, 2012**

**[Bill [•] of 2012]**

An Act to provide for the establishment, administration and management of a system of conclusive property titles through registration of immovable properties and further to amend the relevant Acts as stated in the Schedule and matters connected therewith or incidental thereto.

Whereas the Goa Cabinet has given its approval for introducing the conclusive property titling system with title guarantee, it is hereby expedient to enact a Law in view of the need for uniformity of the law applicable to conclusive property titling;

And whereas in view of the fact that within the State of Goa the lands originally belonged to the Community and were administered and enjoyed by the Community with each village as a separate unit ; AND WHEREAS such a system came to be recognized and regulated by the Code of Comunidades as amended from time to time

AND WHEREAS during the erstwhile Portuguese regime the then Government established records which were recorded ward wise and village wise and which were known as matriz records from which the topography of the land, the cultivation as existing on the date of compilation of the data and their approximate produce were found recorded along with the identification of the property or unit by means of recording the names of the boundary owners of each matriz record;

AND WHEREAS the then Government also undertook the Cadastral survey of several villages the records of which are found in the Directorate of Land Survey;

AND WHEREAS the then Government also brought into force The Land Registration Act as amended or enacted from time to time and established a system whereby properties were described by the respective land Registration numbers and such recording was effected in the Book B maintained under the Land Registration Act, the inscription as to the ownership of the property were recorded in the Book known as Book G, the onus or encumbrances were recorded in the Book F and the mortgages and other rights were recorded in the Book C and other relevant material as set out in the Code of Land Registration as enacted from time to time ;

AND WHEREAS with the Liberation of Goa the Government of Goa enacted the land Revenue Code and undertook the survey of each revenue village identifying lands as per the survey numbers and sub-division numbers without in any way correlating them to any of the records maintained by the erstwhile Government;

AND WHEREAS after the survey was done the Government also under the Land Revenue Code established a Record of Rights which were kept for objections and the occupant with respect to the said lands is found recorded in the Form III of the Record of Rights and after complying with the procedures established under the Land Revenue Code and its rules established Form I & XIV of the Record of Rights and Form B within the villages and established also a City Survey Record within the Cities;

AND WHEREAS it is considered necessary that for the purposes of establishing the title of the landed properties the flow of the title of such lands be determined in order to bring about finality to the title considering each unit whether the same is presently recorded as a survey unit or sub-division unit so as to correlate the same to the matrix records as existing and to the Land Registration or to the Cadastral survey wherever the same exists ;

AND WHEREAS in view of the above it is considered necessary to enact such a law for the State of Goa;

Be it enacted by the Legislative Assembly in the Sixty-first year of the Republic of India as follows:

## **CHAPTER – I PRELIMINARY**

### **1. Short title, extent and commencement**

- (1) This Act may be called the Goa Land Titling Act, 2012.
- (2) It shall extend to the State of Goa.
- (3) It shall come into force on such date as the Government may notify:  
Provided that the Government may notify different dates for different areas.

### **2. Definitions**

In this Act, unless the context otherwise requires:

- i. **“Air rights”** means the right to use and develop the empty space above an immovable property.

- ii. “***Appurtenant rights***” means any right or restriction which goes with an immovable property, such as an easement or a covenant.
- iii. “***Assign***” means the person who receives a piece of property by purchase, gift or by will.
- iv. “***Authority***” means the Land Titling Authority constituted under section 3 of this Act.
- v. “***Biometric authentication***” means a method for uniquely recognizing a human being based on such physical traits as fingerprints, face recognition, iris recognition for the purpose of establishing identity.
- vi. “***Certificate of recording***” means a certificate issued on the basis of entries made in the Land Registers maintained by the Authority.
- vii. “***Citizen facilitation centre***” means a facility created by the Authority for receiving applications and other documents from the citizens residing within the notified jurisdiction of such a centre and forwarding them to the central Title Registry for processing.
- viii. “***Community development scheme***” means a form of immovable property ownership in which the titleholders own their individual units, plus a share of the common areas of the site, or “common” property.
- ix. “***Government***” refers to Government of Goa.
- x. “***Land Titling Tribunal***” means and includes the Court of the Principal District Judge and any Additional District Judge of the respective Judicial Division in the District in which the landed property is situated.
- xi. “***Indefeasible title***” means a title to an immovable property or an interest therein entered in the Register of Titles maintained in Books B and Book G and which cannot be altered or voided.
- xii. “***Index of maps***” means a catalogue of cadastral or survey maps of all immovable properties situated within the notified area and maintained under this Act.
- xiii. “***Indicative map***” means a map that shows the relative location of a property with its correct unique property identification number, indicating the size and shape of the property exactly to scale.
- xiv. “***inventario proceedings***” means the proceedings for the partition of the estate and inheritance and which are adjudicated by the competent court of law and which are enforceable with respect to the parties to the said proceedings who are the heirs or legatees of the estate leaver and not binding on third parties
- xv. “***Judicial proceedings***” means and include the adjudication of rights by a judgment and decree of a competent Court with respect to the specific property declaring the same to be

corresponding to the areas enrolled in the land Revenue Office , the areas identified and determined to be corresponding to the properties registered Land Registration Office and /or declaring the said area to be corresponding to the cadastral survey as maintained by the Portuguese Government

- xvi. **“Letter of administration”** means the permission granted by a Surrogate Court or probate registry to appoint appropriate people to deal with a deceased person's estate where property will pass under Intestacy Rules or where there are no executors living and willing and able to act, having been validly appointed under the deceased's will.
- xvii. **“Marketable title”** means the title to an immovable property as declared by the Land Titling Tribunal through a competent adjudication and indicating its corresponding matriz number and/or land registration number and/or Cadastral Survey number with reference to the present sub-division or survey number.
- xviii. **“Mortgage”** means and includes a mortgage as defined under the Transfer of Property Act, 1882 and /or a mortgage entered in the Book C maintained under this Act.
- xix. **“Power-of-attorney”** shall have the meaning as defined under the Powers-of-Attorney Act, 1882 (Act No. VII of 1882 as amended by Act No. 55 of 1982), but shall have to be registered with the Land Titling Authority.
- xx. **“Prescribed”** means prescribed by Rules under this Act.
- xxi. **“Probate”** means the process of proving a will as valid and thereafter administering the estate of a dead person according to the terms of the will.
- xxii. **“Record”** means a record existing in the registers maintained under the Code of Comunidades, the matriz records, the registers maintained under the Code of Land Registration, the cadastral survey conducted by the erstwhile regime, the survey conducted under the Land Revenue Code and the Record of Rights and Cultivators maintained under the Land Revenue Code and its rules and those defined under the Right to Information Act, 2005.
- xxiii. **“Rules”** means the Rules framed and notified under this Act.
- xxiv. **“Strata title”** means a form of ownership of immovable property devised for multi-level apartment blocks and horizontal subdivisions with shared areas. The 'strata' part of the term refers to apartments being on different levels, or "strata".
- xxv. **“Terrace rights”** means the right to use and develop the space on the roof of a building.

- xxvi. “**Title**” means ownership of an immovable property as recorded in the Book G maintained under this Act and stands against the right of anyone else to claim the property.
- xxvii. “**Unique property identification number**” means an exclusive identification number assigned to an immovable property under the Land Revenue Code in the Index of Lands and in the Directorate of Survey by the Government of the State of Goa.

## **CHAPTER – II**

### **THE LAND TITLING AUTHORITY**

#### **3. Establishment of the Authority**

- (1) Upon the promulgation of this Act, the Government shall, by notification, constitute the Land Titling Authority for the purposes of this Act.
- (2) The Land Titling Authority shall exercise such powers as may be conferred on it and discharge such functions as may be prescribed by or under this Act or any other law for the time being in force.

#### **4. The functions of the Authority**

The Authority shall perform the following functions as per the provisions of this Act and the Rules framed there-under:

1. Frame regulations and detailed guidelines and issue executive instructions for its proper functioning.
2. Prepare, maintain and update the Register of Landed Properties which shall be recorded in the Book B, the Register of Titles which shall be recorded in the Book G , Register of Disputes which shall be recorded in the Book A , Register of Charges, Encumbrances and Liens which shall be recorded in the Book F and mortgages which shall be recorded in Book C and the Index of Maps as maintained by the Authority under this Act .
3. Record, update and maintain the entries with respect to the sub-division or survey numbers in respect of the immovable properties in the notified area.
4. Declare that the sub-division number and the survey number as the unique property identification number with respect to each immovable property in the notified area.
5. Undertake property valuation in respect of the immovable properties in the notified area.
6. Maintain valuation of the properties with respect to each financial year and update the same.
7. Ensure that the facilities of auto-calculation of due stamp duty, registration fees and other applicable levies or fees in respect

- of each immovable property situated in the notified area are available to the citizen, in the public domain.
8. Publish notifications.
  9. Maintain a system of indicative maps in the public domain in respect of immovable properties in the notified areas.
  10. Issue copies and provide extracts of its records upon request.
  11. Issue of certificates of recording.
  12. Prescribe, publish and place in the public domain the schedule of fees, display it prominently in the offices of the Authority and give wide publicity to it.
  13. Prescribe and levy reasonable fees and collect the same for the services rendered, documents issued, licenses granted or information provided by it.
  14. Conduct inquiries for any purpose under this Act.
  15. Take up cases suo moto in respect of irregularities in provisional titles that come to its notice.
  16. Establish sub-offices and citizen facilitation centers as considered necessary.
  17. Collect the duty, fee, levy or fine on behalf of the Government or a local body.
  18. Seek direction from the Government regarding custodianship of any property that comes to vest in the Government.
  19. Furnish the required reports.
  20. Enforce penalties.
  21. Ensure transparency while discharging its functions.
  22. Perform any other function as may be assigned to it by the Government from time to time.

## **5. The powers of the Authority**

(1) The Authority shall, while discharging its functions under this Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- i. summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- ii. requiring the discovery and inspection of documents;
- iii. receiving evidence on affidavit;
- iv. requisitioning any public record or copies thereof from any court or office;
- v. issuing summons or commissions for examination of witnesses or documents; and
- vi. any other matter which may be prescribed.

(2) The Authority, may, for the purpose of any inquiry, examine any record to which this Act applies and which is under the control of a public

authority or a person, and no such record may be withheld from it on any ground.

(3) The Authority may, for the purpose of any inquiry, direct by whom the whole or part of the costs of such inquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908.

(4) The Authority may, at its discretion, direct the Director, Title Registry or any other officer of the Authority to accept any document at the private residence or hospital or jail from a person who is unable to attend the office of the Authority in person, after recording the reasons thereof in writing, in the manner as may be prescribed.

(5) The Authority shall have the powers to pass such interim order in any proceedings, hearing or matter before it as it may consider appropriate.

(6) Subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office or court.

(7) All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of section 193 and 228 of the Indian Penal Code and the Authority shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

(8) The Authority and officers of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(9) No civil court shall have jurisdiction to entertain any dispute relating to an immovable property in respect of which the Authority is empowered by or under this Act, and no injunction shall be granted by any civil court in respect of such matters.

(10) For the purposes of this Act, the Authority shall exercise all the powers of the Chief Controlling Revenue Authority under the Indian Stamp Act, 1899.

(11) The Authority may, for the purposes of discharging of its functions and exercising powers under the Indian Stamp Act, 1899. (12) For the purposes of this Act, the Authority shall exercise all the powers of the Inspector General under the Registration Act, 1908.

(13) The Sub-Registrars appointed under this Act shall be deemed to be officers of the Authority within the notified areas. The Authority may also notify one or more of its officers as Sub-Registrar or District Registrar under the different provisions of the Registration Act, 1908.

(14) The provisions of the Registration Act, 1908 and the Indian Stamp Act, 1899 not inconsistent with the provisions of this Act shall apply mutatis mutandis to the relevant matters dealt with under this Act.

(15) The Authority shall have the power to make regulations within the framework of this Act and the Rules framed there-under for its proper functioning.

## **6. Jurisdiction and offices of the Authority**

(1) The head office of the Authority shall be at such place as the Government may notify.

(2) The Authority may, by notification, and with prior approval of the Government, establish sub-offices and citizen facilitation centers at such other places as may be considered necessary.

(3) The Authority shall have its sittings at the head office or any other place and at such time as the Chairperson may direct, and shall observe such procedure in regard to the transaction of business in its sittings as it may specify in its Regulations.

(4) The Authority shall have a seal and any document purporting to be an authorized document of the Authority must bear signatures of the Chairperson and Members of the Authority and the seal of the Authority.

## **7. Divisions of the Authority**

(1) The Authority shall have three Divisions, namely, Title Registry; Survey, Settlement and Land Information System;

(2) Each Division shall be headed by an officer appointed by the Government, not below the rank of Director or equivalent rank in the State Government, to be designated as the Director of that Division who will function under the directions and superintendence of the Authority.

(3) The Authority may set up administrative divisions required for its proper functioning, such as information technology, administration, finance and any other, in the manner as may be prescribed.

## **8. Officers and staff of the Authority**

(1) The Authority shall have a full-time Secretary-cum-Registrar to be appointed by the Government from amongst officers who are or have been a Director to the Government or an equivalent rank in the Central Government and having experience in the spheres of land records, property registration, cadastral survey, property valuation, information technology and/or law.

(2) The Secretary-cum-Registrar shall be the Chief Administrative Officer of the Authority and shall supervise and coordinate the work of all the Divisions of the Authority and also its administrative and financial matters under the guidance of the Authority in accordance with the Regulations in this regard.

(3) The Government shall specify the numbers, nature and categories of the officers and staff of the Authority required for its proper functioning, in the notification constituting the Authority, and shall provide such officers and staff to the Authority within two months of establishing the Authority:

Provided that where the Government is unable to provide the officers and staff to the Authority within this timeframe, the Authority may outsource the numbers, nature and categories of officers and staff notified by the Government, on a contractual basis, till such period as the Government provides the notified officers and staff.

### **9. Finances of the Authority**

(1) The expenditure of the Authority may be borne out of the Consolidated Fund of the State or through a grant, or through the revenues generated by the Authority itself in accordance with the terms of the Memorandum of Understanding entered into by the Authority with the Government in this regard:

Provided that the Government shall permit the Authority to utilize the interests on its deposits and upto ten per centum of the revenue raised during the financial year by the Authority through titling fees for improving citizen services and for better functioning of the Authority.

For this purpose, the Authority shall submit utilization plans to the Government for consideration and the Government shall dispose of the same within three months of their receipt.

(2) The Authority shall prescribe and levy reasonable fees and collect the same for the services rendered, documents issued, licenses granted or information provided by it:

Provided that the Authority may prescribe ad valorem registration fees.

(3) The schedule of fees prescribed from time to time shall be published, placed in the public domain, displayed prominently in the offices of the Authority and given wide publicity.

(4) The Government or a local body may authorize the Authority to collect any duty, fee, levy or fine on its behalf and require it to remit the same to such Government or local body after deducting a collection charge for services rendered and expenses incurred.

(5) The annual budget of the Authority, for the following financial year, shall be submitted for the approval of the Government in such manner as may be prescribed. All the expenditure incurred by the Authority shall be in accordance with the approved budget.

(6) All accounts of receipts and expenditure of the Authority shall be maintained in the manner prescribed and shall be subject to audit by the Comptroller & Auditor-General of India in accordance with the applicable rules.

(7) The Authority shall put in place a system of internal auditing.

## **CHAPTER-III THE TITLE REGISTRY**

### **10. Establishment of the Title Registry**

- (1) The Land Titling Authority shall establish one central Title Registry for the entire State for the purposes of this Act.
- (2) The Authority may establish sub-offices and citizen facilitation centers as required for processing and forwarding the applications for titling and transfer registration, however, the property titles shall be granted only by the central Title Registry.

#### **11. The documents and registers to be maintained by the Authority**

- (1) Upon notification issued under section 1, sub-section 3, the Authority shall order the Director, Survey & Settlement to prepare an Index of Maps with unique property identification numbers and the Director, Title Registry to prepare a Register of Titles, a Register of Charges and Covenants, and a Register of Disputes regarding the immovable properties located within the notified area, in the manner as may be prescribed.
- (2) All the Registers shall be maintained in paper as well as in electronic form, in the manner and subject to safeguards as may be prescribed. For both the forms, the Authority shall put in place proper systems for identification of the concerned parties, such as, photographs, biometric authentication or any other method as may be prescribed, for the purposes of any transaction or transfer of any immovable property to be recorded in its Registers.
- (3) The computer system of the Authority shall be a protected system as per the provisions of the Information Technology Act, 2000 (as amended from time to time) and the security guidelines and Rules framed there-under.
- (4) Notwithstanding anything contained in any other law for the time being in force, sections 3, 17, 22A, 34, 35, 39, 47A, 59, 65B, 73A, 81A, 85 A, 85B, 85 C, 88A and 90A and other relevant sections of the Indian Evidence Act, 1872 shall be applicable to all electronic records under this Act.
- (5) The Authority may authorize the Director, Title Registry or any other officer to provide extracts of the Register of Titles, Register of Disputes, and Register of Charges and Covenants, in the paper form and/or in the electronic form, to the persons interested in the transaction in the property. Any other citizen requesting for such extracts may also be given the same provided that the Director, Title Registry or any other officer authorized in this behalf satisfies himself/herself about the bona fide of the persons making such a request:

Provided that if the information sought appears to the Authority to have a bearing on national security, it may seek clarification in this regard from the concerned authorities.
- (6) Detailed guidelines in this regard shall be issued by the Authority.
- (7) A reasonable fee, as prescribed by the Authority, shall be levied for each type of information disseminated.

## **12. The Register of Titles**

(1) The Director, Title Registry, or any other officer authorized by the Authority in this behalf, shall maintain a Register of Titles which shall contain, in respect of the immovable properties located within the notified area for which an application for title has been made, the following particulars:

- i. unique property identification number assigned by the Authority;
- ii. area or extent of the property with particulars of the built-up area thereon, if any;
- iii. names of all the persons who are titleholders with their respective extent of holding;
- iv. details of transfers of property including transfers due to succession;
- v. details of strata titles and community development scheme titles;
- vi. information on covenants or charges, if any, standing against the property;
- vii. information on pending disputes, if any, about the property; and
- viii. such other particulars as may be prescribed.

(2) Notwithstanding anything contained in the Registration Act, 1908, the Register of Titles shall contain the records of the immovable properties in notified areas including:

- i. Existing titles of the Government over immovable property;
- ii. Titles of any immovable property acquired by the Union territory Administration, the State or Central Government after the commencement of this Act; and
- iii. Titles of immovable properties vested in local bodies and development authorities.

## **13. The Register of Disputes**

(1) The Director, Title Registry, or any other officer authorized by the Authority in this behalf, shall maintain a Register of Disputes which shall contain, for the immovable properties for which an entry has been made in the Register of Titles and in respect of which any dispute is pending, the following particulars:

- i. Details of the nature of the dispute and the parties involved;
- ii. Details of the court or tribunal or competent legal or statutory authority where such dispute is pending;
- iii. Details of attachments of property under court decrees, injunctions or orders of any court or tribunal or competent legal or statutory authority, if any;

- iv. Details of objections, appeals or revisions filed under sections 22, 28, 42 and 50;
  - v. Details of all the suits and appeals intimated under Chapter VIII;
  - vi. Final order, decree or judgment with regard to the dispute; and
  - vii. Such other particulars prescribed.
- (2) The Director, Title Registry shall ensure that entries are recorded in both, the Register of Disputes and the Register of Titles, of the fact that a dispute is pending against a property in the notified area. The details regarding the dispute shall be indicated in the Register of Disputes, in the manner as may be prescribed.

#### **14. The Register of Charges and Covenants**

The Director, Title Registry, or any other officer authorized by the Authority in this behalf, shall maintain a Register of Charges and Covenants which shall contain, in respect of the immovable properties for which an entry has been made in the Register of Titles, the following particulars:

- i. The nature of the charge and the date of its creation;
- ii. The immovable property to which the charge pertains;
- iii. The amount secured by the charge;
- iv. Short particulars of the charge;
- v. The person or persons in whose favour the charge has been created;
- vi. Details of release of mortgage rights or charge;
- vii. Covenants and charges against any immovable property, ordered under section 17 of this Act;
- viii. Intimation given to the Authority under sections 52, 53 or 54;
- ix. Particulars of all statutory charges including charges under the Companies Act, 1956 as intimated to the Authority under section 55;
- x. Special rights, covenants, or easements created by any party at the time of transfer, succession, partition or lease; and
- xi. Such other particulars as may be prescribed.

#### **15. Entries in Register of Charges & Covenants**

During the process of the preparation of the Register of Titles, if the Director, Title Registry comes across a charge and, or a covenant in the nature of easement right, or a condition which will have a bearing on the absoluteness of the title, he shall seek orders of the Authority for recording and making an entry of the details of such covenant and, or a charge, or such a condition, in the Register of Charges and Covenants and

also in the Register of Titles in addition to making an order under section 26 or 27 as the case may be, in the manner as may be prescribed.

### **16. Issue of Certificate of Recording**

Upon receipt of intimation under the Chapter pertaining to compulsory intimation to the land titling authority, the Director, Title Registry shall enter the details, in the manner as may be prescribed, in the Register of Charges and Covenants or in the Register of Disputes as the case may be, and also make a mention of it in the Register of Titles, and issue a certificate of recording.

### **17. Notification by the Director, Title Registry**

(1) When the preparation of the Register of Titles is taken up, the Authority shall order the Director, Titling Registry to publish a notification inviting all persons interested in obtaining indefeasible titles in their immovable properties, to file claims.

(2) An interested person, or an assign duly authorized by a power-of-attorney registered with the Authority, shall be required to present himself or herself at a place and time specified by the Director, Title Registry for the purpose of registration of their claims.

(3) Each notification made under sub-section 1 shall be:

- i. published in at least three daily newspapers, two of which shall be in the local vernacular having circulation in the notified area;
- ii. placed on the official website of the Authority;
- iii. affixed on the notice board of the concerned gram panchayats or municipalities and other prominent place or places in the notified area; and
- iv. given wide publicity by any other method as may be prescribed in this regard.

(4) A notification published under sub-section 1 shall be held to be a valid notice to each person having an interest in the title of the property proposed to be included in the Register of Titles.

(5) Upon issue of the notification under sub-section 1, all persons claiming any title, right or interest in, or any charge on an immovable property, shall in the manner and time prescribed, furnish the following details for making an entry to that effect in the register which will include any:

- i. deed,
- ii. will confirmed by the competent legal entity,
- iii. leasehold title,
- iv. easements,
- v. customary rights,
- vi. public rights,
- vii. mines and minerals,

- viii. franchise,
- ix. a non-statutory right in respect of an embankment of sea or river wall,
- x. subsisting power of attorney authorizing the agent to sell or develop or construct the property,
- xi. subsisting sale agreement with or without possession of the property,
- xii. subsisting agreement-cum-general power of attorney,
- xiii. pending suit or appeal under Specific Performance Act,
- xiv. pending proceedings regarding dissolution or winding up or bankruptcy before any authority;
- xv. pending proceedings for recovery of statutory duties, levies, taxes or any other claim, charge or encumbrance on the property;
- xvi. pending actions relating to insolvency petition, appointing a receiver, or Writ or an order affecting immovable properties made by any court for the purposes of enforcing a judgment or recognizance of any deed of arrangement or arbitration or settlement, if any; and
- xvii. any other matter as may be prescribed.

### **18. Maintenance of the Registers**

The Register of Titles, Register of Charges & Covenants, and Register of Disputes shall be maintained by the Director, Title Registry, in such manner and in such format as may be prescribed.

### **19. Updation of entries in the Registers**

With prior approval of the Authority, the Director, Title Registry or any other officer authorized in this behalf by a resolution of the Authority, may add, delete or modify and update any entry in respect of any immovable property in the Register of Titles, Register of Disputes, Register of Covenants and Charges, in such manner as may be prescribed.

### **20. Rectification of entries in the Registers**

(1) A person aggrieved by any clerical error, such as spelling mistakes, errors in recording the addresses or any typographical mistake in the Register of Titles, Register of Disputes or Register of Charges and Covenants may file an application for its correction with the Director, Title Registry, within three years from the date of notification of such entry.

(2) The Director, Title Registry, after making an enquiry and satisfying himself as to the genuineness of the error, shall rectify the error with the prior approval of the Authority, in such manner as may be prescribed.

### **21. Evidence of title**

Any title recorded in the Register of Titles in accordance with the provisions of this Act, shall be considered as evidence of the marketable title of the titleholder subject to the entries pertaining to the same property in the Register of Charges and Covenants and in the Register of Disputes.

## **22. Procedure to be followed by the Director, Title Registry**

(1) Documents may be presented to the Director, Title Registry by the person or persons having interest in obtaining property title, or persons executing a transaction in the property, or claiming such transaction pursuant to a decree or order issued by a competent court, tribunal or competent legal authority:

Provided that an assign duly authorized by a power-of-attorney registered with the Authority, may appear on behalf of the interested person or persons.

(2) When a person or persons apply for grant of title, the Director, Title Registry shall follow the following procedure:

He/she shall

- i. enquire and satisfy himself/herself regarding the true identity of the person or persons requesting for the title;
- ii. check whether the documents are updated and complete in all respects;
- iii. check that the application is in the prescribed format and that the subject property is duly described in its entirety by the unique property identification number assigned by the Authority;
- iv. enquire and satisfy himself/herself about the authenticity and validity of the documents presented before him/her;
- v. verify that all requisite duties and levies, including the fees due to the Authority, have been paid, as required by law;
- vi. conduct site verification wherever required;
- vii. make inquiries whether or not the property is disputed in any way; and
- viii. check any other matter likely to affect grant of title to the property.

(3) Upon receipt of a transfer application or report on transaction presented, along with all prescribed forms and documents relating to the act or transaction on the immovable property, the Director, Title Registry shall follow the following procedure:

He/she shall

- i. satisfy himself/herself as regards the identity of the presenters through personal identification documents or in any other manner as may be prescribed by the Authority;

- ii. satisfy himself/herself that the seller(s) has or have obtained a valid title to the subject property from the Titling Authority;  
*Explanation:* After a notification has been issued under section 1, sub-section 3, transactions in the notified area shall be recorded only after the property holder has obtained a title in respect of the subject property from the Title Registry.
- iii. satisfy himself/herself that the valuation is correct as per the records of the Authority;
- iv. verify and satisfy himself/herself whether any stamp duty, transfer duty and any other applicable duty or fee has been paid in respect of the transaction;
- v. enquire and satisfy himself whether or not such transaction is executed by the persons by whom it purports to have been executed;
- vi. satisfy himself that the transaction is not in violation of any law for the time being in force;
- vii. check whether the documents are updated and complete in all respects;
- viii. check that the application is in the prescribed format and that the subject property is duly described in its entirety by the unique property identification number assigned by the Authority;
- ix. conduct site verification wherever required;
- x. make inquiries whether or not the property is disputed in any way; and
- xi. check any other matter likely to affect grant of title to the property.

(4) To ensure transparency, the Director, Title Registry shall process applications within thirty working days of their receipt, in the order in which they are received in the Authority and shall ensure that they are diarized sequentially.

(5) Where the Director, Title Registry comes to a conclusion that the application is inadequate in some manner for presenting to the Authority for orders, he/she shall record his/her reasons in writing for so concluding, and place them before the Secretary-cum-Registrar for orders. The Secretary-cum-Registrar shall pass the requisite orders within seven working days of receipt of the information from the Director, Title Registry. The Director, Title Registry shall inform the applicants within three working days regarding the decision of the Secretary-cum-Registrar. The Director, Title Registry shall examine the applications in such a way that all inadequacies in the application are recorded at the time of first examination. The Authority shall be kept periodically informed by the Director, Title Registry regarding the applications which have been found to be inadequate in the manner prescribed by the Authority. Where the Authority is of the opinion that an application has been incorrectly concluded to be inadequate, it may call

for the records from the Director, Title Registry and the Secretary-cum-Registrar and pass necessary orders in the matter.

(6) To allow for computerized tracking of the status of the applications received, the information regarding applications received shall be placed through information technology in the public domain on the official website of the Authority. Such information would include the name or names of the applicants, their address, e-mail address and phone numbers, the date of receipt of the application, the subject-matter, the unique property identification number, the day-to-day status of the action taken including the name and designation of the official handling the application, the inadequacies found in the application, if any, the date fixed for presentation before the Authority and any other information that the Authority may prescribe.

### **23. Barring reverting to the deeds system**

(1) No immovable property in respect of which an application for titling has been filed with the Title Registry shall be registered under the Registration Act, 1908, and, notwithstanding anything contained in any law for the time being in force, any such registration shall be deemed to be void *ab initio*.

(2) Once an immovable property has been registered under this Act, it shall be registered only under this Act thereafter, and any registration under any other Act shall be deemed to be void *ab initio*.

### **24. Procedure to be followed by the Authority in undisputed cases**

(1) Where the Director, Title Registry comes to the conclusion that an application is complete in all respects, he/she shall put up all the relevant documents, within thirty working days from the date of receipt of the application, to the Authority for a decision regarding titling.

(2) Where the Authority comes to a conclusion that there is no dispute with regard to the title of the property, it shall give a clear direction to the Director, Title Registry as to whose name or names shall be provisionally entered against the property in the Register of Titles, and the Director, Title Registry shall make the entry within seven working days and simultaneously issue a notification accordingly. He shall also submit the compliance report to the Authority, in respect of each order, in the manner as may be prescribed by the Authority.

(3) The Authority shall ensure that undisputed cases shall be disposed of within a period of thirty working days from the date of submission of the application by the Director, Title Registry to the Authority.

(4) An appeal against the decision of the Authority shall lie with the Land Titling Tribunal within three months of the date of notification of the decision of the Authority.

## **25. Procedure to be followed by the Authority in disputed cases**

(1) Where the Authority comes to a conclusion that there is a dispute with regard to the title of the property, it shall give a clear decision to this effect and order the Director, Title Registry to make an entry to that effect in the Register of Disputes and in the Register of Titles and refer the dispute to the Civil Judge Senior Division appointed under the Goa Civil Courts Act.

## **26. Adjudication by the Civil Court**

(1) The Civil Judge shall, thereafter, proceed to hold hearings in the case to resolve the contentious issues and give its final decision within six months as to whether or not the name or names shall be provisionally entered against the property in the Register of Titles and the corresponding endorsements made in the Register of Disputes, and give orders to the Director, Title Registry to that effect.

(2) Where the Civil Judge Senior Division gives direction to enter a name or names provisionally in the Register of Titles, the Director, Title Registry shall make the entry within seven working days and issue a notification accordingly. He shall also submit the compliance report to the Authority, in respect of each order, in the manner as may be prescribed by the Authority.

(3) An appeal against the decision of the Authority shall lie with the Land Titling Tribunal within three months of the date of notification of the decision of the Authority.

## **27. Power of the Tribunal to give directions to the Authority**

If the Authority fails to give its final decision within the timeframe specified in section 24 or 25 as the case may be, any of the parties concerned shall be free to file an application before the Land Titling Tribunal to give directions to the Authority to dispose of the matter within a timeframe to be specified in the order of the Tribunal.

## **28. Provisional entries to attain conclusiveness**

(1) A provisional entry made in the Register of Titles by the order of the Authority shall be conclusive after the expiry of a period of three years from the date of notification of the grant of the provisional title, and such an entry shall be indefeasible and conclusive evidence of title in the concerned property:

Provided that if an appeal is filed against the order of the Authority before the Land Titling Tribunal or a High Court or the Supreme Court, the provisional title shall be deemed to be conclusive and indefeasible only after the final disposal of such an appeal.

(2) For the purpose of making a provisional title conclusive and indefeasible, the Authority shall make the necessary endorsement in the Register of Titles, affix the seal of the Authority on the due date on which the provisional title shall be deemed to be conclusive and indefeasible and the Director, Title Registry shall issue a title certificate to that effect, in the manner as may be prescribed.

## **CHAPTER – IV**

### **SURVEY, SETTLEMENT AND LAND INFORMATION SYSTEM**

#### **29. Establishment of the Survey, Settlement & Land Information System Division**

(1) The Land Titling Authority shall establish a Survey, Settlement & Land Information System Division for the Union territory (or the State) for the purposes of this Act.

(2) The Authority may establish sub-offices of this Division at several locations as required.

*Explanation:* For the purposes of this section, the Government may require its existing Survey & Settlement Department to be incorporated within the Authority as the Survey, Settlement & Land Information System Division. Where this is not feasible, a separate Survey, Settlement & Land Information System Division may be created under the Authority.

#### **30. Unique property identification number for each immovable property situated within the notified area**

(1) Upon notification issued under section 1, sub-section 3, the Authority shall order the Director, Survey, Settlement and Land Information System to prepare a record of boundaries, or any part of a boundary, of each immovable property within the notified area and give it a unique identification number, in the manner as may be prescribed.

(2) The Director, Survey, Settlement and Land Information System shall maintain an Index of Maps in which the unique property identification number for each immovable property in the notified area shall be recorded and the information shall be placed in the public domain, in the manner as may be prescribed.

(3) The Director, Survey, Settlement and Land Information System shall develop and maintain in the public domain, in the manner as may be prescribed, a system of indicative maps with the corresponding unique property identification numbers in respect of the immovable properties situated in the notified area.

(4) As and when an application is received for title or transfer, the unique property identification number shall be entered in the Register of Titles in the manner as may be prescribed:

Provided that where an entry is made in the Register of Titles as per section 62, sub-section 4, the Authority shall direct the Director, Survey, Settlement and Land Information System to carry out the survey and mapping in respect of such property and to grant a unique property identification number to it. The Authority shall, thereafter, seek direction from the Government regarding custodianship of such property.

### **31. Functions and powers under the extant survey & settlement laws**

The Director, Survey, Settlement and Land Information System in the Authority shall, for the purposes of this Act, discharge all the functions and exercise all the powers of the Head of the Department in the Union territory (or the State), in-charge of survey and settlement:

Provided that if an updated record for the notified area has already been created by an officer of the Government duly authorized in this regard under the applicable survey and settlement law of the Union territory (or the State), it shall be provided to the Authority by such officer, and the same may be adopted by the Authority as its own record.

### **32. Standards of surveying and mapping to be maintained**

(1) The Government shall lay down and place in the public domain, in the manner as may be prescribed, the norms and standards that the Authority shall adopt for cadastral surveying and mapping in respect of the immovable properties situated in the notified area.

(2) The Authority may, with the prior approval of the Government, put in place a system of survey through private licensed surveyors, in the manner as may be prescribed.

(3) Based upon the accurate cadastral survey maps, the Director, Survey, Settlement and Land Information System shall create, maintain and continuously update a Land Information System for the entire notified area, in the manner as may be prescribed.

### **33. Surveying upon request**

(1) As and when an application is received from a titleholder for surveying of the area and boundaries of his/her immovable property situated in the notified area, the Director, Survey, Settlement and Land Information System shall arrange for the same upon payment of fees by the applicant.

(2) The Authority shall prescribe a schedule of reasonable fees for the purpose and place the same in the public domain, in the manner as may be prescribed.

## **CHAPTER–VI**

### **THE LAND TITLING TRIBUNAL**

#### **34. Establishment of the Tribunal**

(1) Upon the promulgation of this Act, the Government shall, by notification, constitute the Land Titling Tribunal for the purposes of this Act. The District Court shall be the Land Titling Tribunal for the property located in the District.

(2) The Land Titling Tribunal shall exercise such powers as may be conferred on it and discharge such functions as may be prescribed by or under this Act or any other law for the time being in force.

#### **35. The functions of the Tribunal**

(1) Upon receipt of an application under section 27 the Tribunal shall give necessary directions to the Authority.

(2) The Tribunal shall hear appeals against the orders of the Authority. A party aggrieved with an order of the Authority may file such an appeal within three months of the date of notification of such an order.

(3) The Tribunal shall ensure transparency while discharging its functions.

#### **36. The powers of the Tribunal**

(1) The Tribunal shall be bound by the procedure laid down by the Code of Civil Procedure, 1908.

(2) Subject to the provisions of this Act and the Rules framed thereunder, the Tribunal shall regulate its procedure, including duration of oral hearings, when granted, and times of its inquiry, as may be prescribed, so as to dispose of appeals within a period of six months from the date of filing of the appeal.

(3) All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 196 and 228 of the Indian Penal Code, and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(4) Subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, the Tribunal shall have the power of requisitioning any public record or document or copy of such record or document from any office or court.

### **37. Bar of jurisdiction of civil courts**

No civil court shall have jurisdiction to entertain any dispute relating to an immovable property in respect of which the Tribunal is empowered by or under this Act, and no injunction shall be granted by any court in respect of such matter.

### **38. Jurisdiction and benches of the Tribunal**

(1) The principal seat of the Tribunal shall be in each District or at such place as the Government may notify.

## **CHAPTER – VII COMPULSORY INTIMATION TO THE LAND TITLING AUTHORITY**

It shall be compulsory for the parties applying for title or transfer under provisions of this Act or who have been granted provisional or conclusive title under this Act, to intimate to the Land Titling Authority the following information:

### **39. Compulsory intimation of civil suits or appeals or revisions**

(1) Notwithstanding anything contained in any other law for the time being in force, it will be incumbent upon the disputing party relating to any suit or appeal or revision in relation to any rights or interest in an immovable property recorded in the Register of Titles, pending on the date of such notification in any civil court, High Court, the Supreme Court, or in any quasi-judicial authority established under any law, to intimate, in the manner as may be prescribed, about such pendency to the Authority, get it recorded, obtain a certificate of recording and file such certificate before the court or tribunal.

(2) If any suit or appeal or revision is filed in any civil court, High Court or in the Supreme Court, or any quasi-judicial authority established under any other law in respect of an immovable property recorded in the Register of Titles, it shall be incumbent upon the disputing party to intimate, in the manner as may be prescribed, about filing of such suit or appeal or revision to the Authority, get it recorded, obtain a certificate of recording and file such certificate before the court or tribunal.

(3) It shall be incumbent upon the decree holder or plaintiff or appellant or any other interested person to intimate to the Authority, in the manner as may be prescribed, the resolution of a dispute recorded in the Register of Disputes, within seven days of receipt of the decree or intimation of

resolution of dispute. The Authority shall record such resolution and issue a certificate of recording.

#### **40. Compulsory intimation of land acquisition proceedings**

It will be incumbent upon the Collector under the Land Acquisition Act, 1894 to intimate to the Authority, in the manner as may be prescribed, the fact of issue of a notification under section 4, sub-section 1 or a declaration under section 6, or passing of an award under section 15 of that Act in respect of any immovable property situated within the notified area and to obtain a certificate of its recording.

#### **41. Compulsory intimation of Government transactions**

All the transactions by the Government in respect of immovable properties within the notified area, including alienation, assignment, regularization of occupation, sale, grant or lease, shall be intimated to the Authority by the authorized official carrying out such transaction, in the manner as may be prescribed, and it shall be incumbent upon such official to obtain the certificate of recording.

#### **42. Compulsory intimation of equitable mortgages**

(1) All the financial institutions or other bodies or individuals holding equitable mortgage in respect of any immovable property situated within the notified area shall intimate that fact to the Authority, in the manner as may be prescribed, and obtain a certificate of recording.

(2) If any equitable mortgage is created in favour of a financial institution or any other body or individual, in respect of a property situated within the notified area, it shall be incumbent upon such financial institution, body or individual to intimate the fact of creation of such equitable mortgage to the Authority, in the manner as may be prescribed, and to obtain a certificate of its recording.

#### **43. Compulsory intimation of statutory charges**

It will be incumbent upon the party in whose favour a statutory charge or lien, including the charges registered under the Companies Act, 1956, is created in respect of an immovable property situated within the notified area, to intimate this fact to the Authority, in the manner as may be prescribed, and to obtain a certificate of its recording.

#### **44. Compulsory intimation of pending actions**

It will be incumbent upon the parties concerned to intimate the Authority, in the manner as may be prescribed, all the pending actions such as appointment of a receiver in an insolvency petition, or making of a writ or

an order affecting an immovable property situated within the notified area, issued by any court or a competent legal authority for the purpose of enforcing a judgment or recognition of any deed of arrangement or arbitration or settlement, and to obtain a certificate of its recording.

#### **45. Powers-of-Attorney to be compulsorily notified**

It will be incumbent upon the parties concerned to intimate the Authority, in the manner as may be prescribed, all the powers-of-attorney authorizing the agent to sell or develop or construct the immovable property situated within the notified area or to deal with it in any manner having an impact over its title and all the agreements-cum-general-powers-of-attorney, and to obtain a certificate of its recording.

#### **46. Compulsory intimation of grant of succession**

(1) It shall be obligatory for the Registrar, Births & Deaths or any other competent authority to intimate to the Authority the death of:

- i. a titleholder, which shall be entered into the Register of Titles;
- ii. a charge holder, which shall be entered into the Register of Charges and Covenants;
- iii. a disputing party, which shall be entered into the Register of Disputes;

in the manner as may be prescribed.

(2) Where the deceased titleholder, charge holder or a disputing party has legal heirs, it shall be obligatory for such legal heirs to inform the Authority, in the manner as may be prescribed, about the death of such person and the fact of the death shall be recorded by the Authority in its Registers.

(3) In case of the death of a person whose name is entered as a titleholder in the Register of Titles, a charge holder in the Register of Charges and Covenants and/or a disputing party in Register of Disputes, the legal heirs of such deceased shall obtain a decree of succession from the competent court and produce the same before the Authority for replacing the name of the deceased with their names in the aforesaid Registers.

#### **47. Compulsory reporting or filing of information**

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882, the Registration Act, 1908 or any other law for the time being in force, all titleholders of immovable properties situated within the notified area shall file the transfer applications or report on transactions to the Authority, in such manner as may be prescribed, in respect of all acts or transactions relating to such immovable property, including the transactions detailed hereunder:

- a) Any act which purports or operates to create, declare, assign, limit or extinguish, whether at present or in the future, any right, title or interest, whether vested or contingent;
  - b) Any creation, declaration, assignment, limitation or extinction of any right, title or interest effected through the receipt or payment of any consideration;
  - c) Sale;
  - d) Gift;
  - e) Creation of a charge by way of any kind of mortgage including an equitable mortgage, and release of such charge;
  - f) Lease, or reserving a yearly rent, or periodic premiums;
  - g) Transfer or assignment of any decree or order of a court or any award when such decree, order or award purports or operates to create, declare, assign, limit or extinguish, whether at present or in the future, any right, title or interest, whether vested or contingent;
  - h) Any decree, order or award passed by a civil court, including any decree, order or award passed, on consent of the defendants or on circumstantial evidence;
  - i) Any rectification of title done by the Director, Title Registry or the Land Titling Tribunal;
  - j) Any easementary rights, appurtenant rights, terrace rights or air rights;
  - k) Sale or construction or development agreements;
  - l) Powers-of-attorney authorizing the agent to sell, construct or develop such property;
  - m) Agreement-cum-general-powers-of-attorney relating to the property;
  - n) Mergers, amalgamations or demergers of companies involving immovable property;
  - o) Transfers of immovable property after dissolution of partnership firms; and
  - p) Any other transaction with regard to the immovable property.
- (2) Notwithstanding anything contained in the Indian Stamp Act, 1899 or any other law for the time being in force, an application for title, transfer or a report on the transaction made in accordance with Chapter-VIII of this Act shall be considered to be an instrument for the purposes of levy of stamp duty under that Act.

#### **48. Compulsory reporting of transactions**

Without prejudice to anything said herein before, all the information regarding all the acts and transactions in relation to an immovable property situated within the notified area shall be reported to the Authority for recording in the manner as may be prescribed.

Among other acts and transactions pertaining to an immovable property, the following acts shall be included:

- a) Charges created by unregistered transactions;
- b) Probates and letters of administration;
- c) Attachments of property made through court decrees, injunctions or orders of any court or tribunal or statutory authority; and
- d) Any other matter as may be prescribed.

**49. Presentation of transfer application or report on transaction**

The transfer application or report on transaction along with the prescribed forms and documents relating to the act or transaction in respect of the immovable property shall be presented to the Authority:

- a) by a person executing such transaction or claiming such transaction pursuant to a decree or order issued by a competent court or tribunal or a competent legal authority; or
- b) by the agent of such person duly authorized by a power-of-attorney which has already been registered with the Authority in the Register of Charges and Covenants:

Provided that no transaction in respect of a property shall take place between such agents, and the name of the person or persons on whose behalf the transaction has taken place shall be entered as the new titleholder in the Registers of the Authority.

**CHAPTER-VIII  
MISCELLANEOUS**

**50. Titling to be made compulsory after five years of promulgation of this Act**

(1) After the expiry of a period of five years from the date of promulgation of this Act, it shall be incumbent upon the property owners to obtain a title from the Authority for each property owned, in the manner as may be prescribed.

(2) The title shall be obtained for the land on which the property is situate, irrespective of the fact whether or not the construction of the property has been completed or not.

(3) After the coming into force of this section, the Authority shall grade all properties within the notified area according to their size and value into three categories, namely, small, medium and large, in the manner as may be prescribed. Other than the properties being transacted, the Authority shall proceed to give titles to the “small” property-holders first and only thereafter to the holders of “medium” and “large” properties.

(4) After the coming into force of this section, any immovable property for which there is no rightful titleholder, to be determined in the manner as may be prescribed, shall vest in the Government without any recompense, and an entry shall be made to that effect in the Register of Titles.

### **51. Effect of non-compliance of requirement**

(1) Notwithstanding anything contained in any other law or enactment in force, if the requirement of registration under this Act is not complied with, the transfer, grant or creation of title or right or interest shall become void *ab initio*.

(2) No transaction or act relating to immovable property required to be registered or recorded under this Act or reported to the Authority under this Act shall be effective and received as evidence of a transaction relating to such property, unless it has been registered or recorded upon receipt of information, as the case may be, by the Authority under the provisions of this Act:

Provided that an unregistered document affecting immovable property and required by this Act or the Transfer of Property Act, 1882, to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877, or as evidence of any collateral transaction not required to be effected by registered instrument.

(3) On the application of sub-section 1, in case of transfers for valuable or other consideration, by the way of gift or in pursuance of an order of any court, the title to the immovable property reverts to the transferor who holds it on a bare trust for the transferee.

(4) On the application of sub-section 1, in cases of leases or grants, charges or mortgages, the lease or grant or creation of charge or mortgage shall have effect as a contract made for valuable consideration to lease or grant or create such legal interest.

### **52. Completion of recording of titles to be notified**

(1) Once the recording of titles is completed in the notified area, the Authority shall notify the fact. Thereafter, only the titling system shall prevail in the notified area.

(2) Every notification made under this section shall be published in the Official Gazette, and in at least three daily newspapers, two of which shall be in the local vernacular, having circulation in the notified area, and also by affixing a copy of notification on the notice board of the concerned gram panchayats or municipalities and other prominent place or places in the notified area, or by any other method, as may be prescribed in this regard.

### **53. Liability for void transfers**

If any title or right or interest in immovable property is retransferred, re-granted or recreated because of a failure to comply with the requirements of registration, the transferee or grantee or, as the case may be, the mortgagor will be liable to:

(a) the other party for all the proper costs of, and incidental to, the retransfer, re-grant or recreation of the title or right or interest in the immovable property,

(b) indemnify the other party in respect of any other liability reasonably incurred by it because of the failure to comply with the requirement of registration.

#### **54. Furnishing of reports**

(1) The Authority shall prepare once in every year, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies of the report shall be forwarded to the Government.

(2) A copy of the report received under sub-section 1 shall be laid, as soon as may be after it is received by the Government, before the Parliament (or the State or Union territory legislature).

#### **55. Acts of Authority not to be called in question**

No act done by the Authority shall be called into question on the ground only of any defect in the constitution of, or the existence of any vacancy in the Authority.

#### **56. Penalties**

(1) Any person responsible for providing any information under this Act shall be personally liable for failure to furnish the information within the period specified therein, and the penalty thereof shall be as may be prescribed.

(2) In case of willful concealment of information or deliberate furnishing of false information to the Authority, the person or persons responsible shall be punished with fine as may be prescribed.

(3) The Authority shall impose penalties, as may be prescribed, for any willful violation of this Act, including penalties on its own officers and staff.

(4) The Authority may recover from its own officers and the staff sums paid out of the title guarantee fund if, after due inquiry, it comes to the conclusion that such sums had to be paid due to their willful negligence or mala fide actions.

#### **57. Removal of difficulties**

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification, make such provisions not

inconsistent with the provisions of this Act as appear to it, to be necessary or expedient for removal of difficulties.

(2) Every notification issued under this section shall be laid, as soon as may be after it is made, before the Parliament or the State or Union territory Legislature, as the case may be.

### **58. Access to Registers**

(1) All records and the Registers of the Authority shall be a matter of public record.

(2) Any interested person may approach the Authority for an extract of any information contained in the Registers maintained under this Act. All such extracts and copies issued shall bear the seal of the Authority and the signature of an officer authorized in this behalf, and will be issued on payment of such fees as may be prescribed by the Authority:

Provided that the Authority may withhold information if, in its opinion, the information sought may endanger national security. The reasons for withholding information must be recorded in writing and the person requesting for the information shall be duly informed.

(3) A copy or extract from the Registers given by the Authority or an officer authorized in this behalf, under its seal, shall be admissible as evidence for the purpose of proving the title to an immovable property or contents of a transaction relating to the immovable property comprised in the extract.

### **59. Immunity for acts done in good faith**

No legal proceedings or any other claim or action shall lie against an employee of the Authority for anything done in good faith under this Act or the Rules and regulations made there-under.

### **60. Power of Government to make Rules**

(1) The Government may, by notification, make Rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such Rules may provide for the:

- i. The organizational set-up of the Authority;
- ii. The manner of appointment of the Chairperson, Members and officers and staff of the Land Titling Authority and the Land Titling Tribunal;
- iii. The fixation of salary, allowances and other terms and conditions of service of the Chairperson, Members, and various officers of the Authority and the Tribunal;
- iv. The manner in which the Chairperson or a Member of the Authority or the Tribunal may resign his/her office;

- v. The powers and functions of the Land Titling Authority and the Land Titling Tribunal and their officers;
- vi. The manner of submission of the annual budgets of the Authority for the approval of the Government;
- vii. The manner in which the accounts of receipts and expenditure of the Authority shall be maintained and audited;
- viii. The periodicity of reporting to the Authority by the Director, Title Registry regarding the applications which have been found to be inadequate;
- ix. The manner of preparation, compilation, maintenance, rectification of errors, updation, safeguards and amendment of the Registers in both paper and electronic forms, and prescribing the forms in which they are to be compiled or maintained, the places at which, and the officer by whom Registers have to be maintained, and the officer by whom the said entries are to be verified and amended;
- x. Maintenance of other records, registers, accounts, maps and plans for the purpose of this Act and the manner and forms in which they shall be prepared and maintained;
- xi. The manner in which the unique identification number shall be given to each immovable property within the notified area;
- xii. The manner in which the system of indicative maps shall be developed and maintained in the public domain;
- xiii. Putting in place proper systems for identification of the concerned parties, such as, photographs, biometric authentication or any other method, and issuing guidelines in this regard;
- xiv. The manner of submission of compliance report to the Authority by its Directors and other officers;
- xv. The norms and standards that the Authority shall adopt for cadastral surveying and mapping in respect of the immovable properties situated in the notified area;
- xvi. The manner of creating, maintaining and continuously updating the Land Information System;
- xvii. The manner of putting in place a system of survey through private licensed surveyors;
- xviii. The manner in which the Authority shall undertake property valuation and the manner in which the valuation details shall be provided upon request.
- xix. Inspection of the records, registers and documents to be maintained;
- xx. Publication of notices and notifications;
- xxi. The manner in which all the required information, including the indicative maps, shall be maintained in the public domain;

- xxii. The matter to be presented by persons claiming title, right or interest in or charge on an immovable property and the manner and time in which it is to be presented;
- xxiii. The manner in which the Authority shall prescribe, levy and collect fees for the services rendered, documents or extracts there-from issued, licenses granted, or information provided;
- xxiv. The manner in which the schedule of fees prescribed from time to time shall be published and given wide publicity;
- xxv. The manner of transferring immovable property and any rights contained therein;
- xxvi. The procedure to be followed in making enquiries and hearing claims, objections and appeals under this Act;
- xxvii. The manner in which the certificates of recording shall be issued;
- xxviii. The manner in which the Authority shall guarantee and indemnify the correctness of title of ownership for each property number entered in the Register of Titles in the notified area, including the title guarantee and indemnification through the private parties;
- xxix. The manner in which the account of the title guarantee fund of the Authority shall be maintained and furnished to the Authority;
- xxx. The manner in which payment shall be made from the title guarantee fund;
- xxxi. The manner in which the matters which are to be compulsorily intimated to the Authority shall be reported;
- xxxii. The manner in which the Annual Report shall be prepared and submitted by the Authority to the Government;
- xxxiii. The manner in which penalties shall be enforced by the Authority; and
- xxxiv. The manner in which property owners shall obtain titles from the Authority upon titling being made compulsory after the expiry of a period of five years from the date of promulgation of the Act.

(3) All Rules made by the Government under this section and any orders relating to the delegation of powers to the Authority shall be laid, as soon as may be after they are made, before the Parliament (or the State or Union territory legislature).

### **61. Powers of Authority to delegate and issue executive instructions**

(1) The Authority may delegate such of its powers to its Members or officers as it may consider necessary.

(2) The Authority may issue executive instructions in furtherance of various provisions of this Act and Rules made there-under in order to

achieve the aims and objectives of this Act, so long as they are not inconsistent with such provisions.

(3) With prior approval of the Government, the Authority may decentralize its functions by delegating such of its functions to other statutory organizations as it considers necessary.

*Explanation:* The statutory organizations may be panchyati raj institutions, urban local bodies or development authorities, offices of the Revenue administration established under the relevant laws, and the Registration offices established under the Registration Act, 1908.

## **62. Repeal and savings**

For the removal of doubts, it is hereby stated that, in case of any inconsistency between the provisions of this Act and any other Act, the provisions of this Act shall prevail.

## **63. Amendment of the Indian Stamp Act, 1899**

The Indian Stamp Act, 1899 shall be amended in the manner specified in Part-I of the Schedule to this Act.

## **64. Amendment of the Registration Act, 1908**

The Registration Act, 1908 shall be amended in the manner specified in Part-II of the Schedule to this Act.

## **65. Amendment of the Limitation Act, 1963**

The Limitation Act, 1963 shall be amended in the manner specified in Part-III of the Schedule to this Act.

## **66. Amendment of the Land Acquisition Act, 1894**

The Land Acquisition Act, 1894 shall be amended in the manner specified in Part-IV of the Schedule to this Act.

## **SCHEDULE**

### **PART I**

#### **Amendments to the Indian Stamp Act, 1899**

1. Section 2, sub-clause 12 shall be substituted by

*Section 2 (12) – ‘Executed’ and ‘execution’ used with reference to instruments, mean ‘signed’ and ‘signature’*

*The terms ‘signed’ and ‘signature’ also include an electronic record which can be attributed to the originator,*

*a) if it was sent by the originator himself;*

*b) by a person who had the authority to act on behalf of the originator in respect of that electronic record; or*

*c) by an information system programmed by or on behalf of the originator to operate automatically.*

2. Section 2, sub-clause 14 shall be substituted by

*Section 2 (14) – Instrument includes every document by which any right or liability is, or purports to be created, transferred, limited, extended, extinguished or recorded.*

*The term document also includes any electronic record, meaning data, record or data generated, image or sound stored, received or sent in an electronic form or microfilm or computer-generated microfiche.*

## **PART II**

### **Amendment to the Registration Act, 1908**

1. Section 1(2A) shall be added

*1(2A). It shall not apply to registration of such immovable properties in notified areas which have been taken up for registration under the Land Titling Act, 2010.*

2. Section 1(2B) shall be added

*1(2B). It shall not apply to registration of immovable properties in notified areas after the expiry of a period of five years from the date of coming into force of the Land Titling Act, 2010 in such areas.*

## **PART III**

### **Amendment to the Limitation Act, 1963**

In the Schedule to the Limitation Act, 1963, the Period of Limitation in relation to item 65 of the Act shall be amended to ‘five’ years.

## **PART IV**

### **Amendment to the Land Acquisition Act, 1894**

The Land Acquisition Act, 1894 shall be amended in the manner specified as required under this Act.

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## **THE LAND TITLING ACT, 2012**

### **STATEMENT OF OBJECTS AND REASONS**

The peace and prosperity of the citizens and good governance of a country require accurate and updated immovable property records. The current system of maintenance of property records in the country has several drawbacks. There are numerous agencies involved in their maintenance, leading to a multiplicity of inharmonious property records; lack of interconnectivity among these agencies, their inefficiency and differing processes of updation of property records lead to inaccuracies in these records. The processes for updation of property records are cumbersome and time-consuming which lead to backlogs in the maintenance of property records. The system of transferring immovable property through registration of deeds and documents and presumptive titles leads to irregularities and litigation. Introducing the system of Conclusive Titles with title guarantee and indemnification against loss due to inaccuracies in property titles, will create an environment conducive to facilitating easier access to capital and, therefore, enhanced agricultural productivity per unit of land, efficient property transactions and security of tenure and property rights.

**THE LAND TITLING ACT, 2010**  
**MEMORANDUM OF DELEGATED LEGISLATION**

**THE LAND TITLING ACT, 2010**  
**FINANCIAL MEMORANDUM**

**THE LAND TITLING ACT, 2010**  
**NOTES ON CLAUSES**

## **THE LAND TITLING ACT, 2010**

### **NOTES ON OTHER LAWS THAT MAY NEED TO BE AMENDED**

The following extant Central legislations may need to be amended as indicated below for giving effect to the provisions of the Land Titling Act, 2010:

- (1) The Indian Stamp Act, 1899 to be amended in the manner specified in Part I of the Schedule enclosed.
- (2) The Registration Act, 1908 to be amended in the manner specified in Part II of the Schedule enclosed.
- (3) The Limitation Act, 1963 to be amended in the manner specified in part III of the Schedule enclosed.
- (4) The Land Acquisition Act, 1894 to be amended in the manner specified in Part IV of this Schedule enclosed.

### ***Schedule***

#### **PART I**

##### **Amendments to the Indian Stamp Act, 1899**

3. Section 2, sub-clause 12 shall be substituted by  
*Section 2 (12) – ‘Executed’ and ‘execution’ used with reference to instruments, mean ‘signed’ and ‘signature’*

*The terms ‘signed’ and ‘signature’ also include an electronic record which can be attributed to the originator,*

- a) if it was sent by the originator himself;*
- b) by a person who had the authority to act on behalf of the originator in respect of that electronic record; or*
- c) by an information system programmed by or on behalf of the originator to operate automatically.*

4. Section 2, sub-clause 14 shall be substituted by  
*Section 2 (14) – Instrument includes every document by which any right or liability is, or purports to be created, transferred, limited, extended, extinguished or recorded.*

*The term document also includes any electronic record, meaning data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche*

#### **PART II**

##### **Amendment to the Registration Act, 1908**

Section 1(2A) shall be added

*1 (2A). It shall not apply to registration of immovable property in notified areas wherein the Land Titling Act, has been brought into*

*force, if the provisions are inconsistent to the provisions of Land Titling Act.*

**PART III**

***Amendment to the Limitation Act, 1963***

In the Schedule to the Limitation Act, 1963, the Period of Limitation in relation to item 65 of the Act shall be amended to 'five' years.

**PART IV**

***Amendment to the Land Acquisition. Act 1894.***

*Act shall be amended in the manner specified as required under this Act.*