

# Reflection of the Rule of Constructive Destruction (Talaf Hukmī) with Respect to Immovable Property in the Law on the Mandatory Official Registration of Immovable Property Transactions

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## Abstract

The Law on the Mandatory Official Registration of Immovable Property Transactions was enacted in 2024 with the objective of enhancing the status of official documents and consolidating ownership rights within the country. This statute explicitly provides for the implementation of the rule of constructive destruction (talaf hukmī), a matter which, prior to its enactment, had been accompanied by uncertainty in relation to real property claims. Judicial practice had also displayed divergent approaches in applying this rule, such that certain courts accepted its application while others rejected it. With the enactment of this law, it was anticipated that the application of the rule of constructive destruction in relation to real property claims would be employed clearly and expressly within judicial practice. Nevertheless, due to internal inconsistencies among its articles and notes, the law has left ambiguities concerning the implementation of constructive destruction with respect to immovable property. Accordingly, in this article, which has been prepared using a descriptive–analytical method and based on library research, we have sought to examine the position of the rule of constructive destruction within the aforementioned law and to answer the question of under what conditions and in what manner the law has recognized the application of constructive destruction. The hypothesis advanced in response to this question is that although the law explicitly recognizes the implementation of the rule of constructive destruction in Article 10, ambiguities in other articles and notes have created challenges in its application. The findings indicate that the law has not clearly provided for the manner of implementing the rule of constructive destruction with respect to immovable property; however, the non-annulment of official documents and the application of constructive destruction to claims brought against them have been accepted. Ambiguities remain with regard to claims arising from unregistered immovable property.

**Keywords:** Rule of Constructive Destruction (Talaf Hukmī); Property Registered in the System; Extinction of Real Property Claims; Law on the Mandatory Official Registration of Immovable Property Transactions

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## 1. Introduction

The application of the rule of constructive destruction (talaf hukmī) to real property claims in Iran has long been surrounded by significant ambiguity and doubt; to such an extent that some courts have fully accepted constructive destruction in real property disputes, while others have refused to recognize it. The non-implementation of this rule has led to a degree of disorder in the law governing immovable property and official documents, resulting in numerous cases being brought before the courts with varying claims. The Law on the Mandatory Official Registration of Immovable Property Transactions entered into force in June 2024 with the objective of enhancing the credibility of official documents and supporting the stabilization of ownership rights (Ahmadlou, 2025; Tabatabaei Hesari, 2024). Although Article 1 of this law explicitly rejects the hearing of any claim brought against property registered in the system and supported by an official deed, and even against unregistered property, and only Article 10 refers to the implementation of the rule of constructive destruction, certain situations remain ambiguous in a manner that calls into question the very objective of the law's enactment (Khodadad & Amini, 2022; Tabatabaei Hesari, 2025).

In fact, despite the fact that the Iranian registration system is characterized as a real (objective) system reflecting the necessity of official registration of immovable property, and although Article 1 of the Law affirms the non-annulability of official deeds, some of its provisions conflict with this principle and render the implementation of the rule of constructive destruction challenging (Tabatabaei Hesari, 2019, 2024). The application of constructive destruction can protect good-faith third parties, better safeguard public order, and prevent economic consequences arising from ownership disputes and demolition of buildings due to competing ownership claims (Alsan et al., 2024; Tabatabaei Hesari & Ayinparast, 2023). Nevertheless, in Iranian law, this institution is accompanied by numerous ambiguities and conditional considerations. Accordingly, in this article, we first examine the Iranian registration system and the objectives of the Law on Mandatory Registration and subsequently analyze, under various hypotheses, the implementation of the rule of constructive destruction.

With respect to the implementation of the rule of constructive destruction in real property disputes under the Law on Mandatory Registration, no prior research has yet been conducted, a foreseeable matter given the novelty of the law and the relative neglect of the doctrine of constructive destruction. Apart from the works of Nasrin Tabatabaei Hesari entitled *The Role and Function of the Deeds and Properties Registration Organization and its Powers with Amendments Based on the Industrial Property Protection Law and the Law on Mandatory Official Registration of Real Estate Transactions*, published by Judiciary Publications, and her article entitled *The Position of the "Registration" Institution in Ensuring the Legal Stability of Movable Property and Transactional Security with Emphasis on Collateral Transactions*, published in *Private Law Studies*, none of the articles and books addressing the Law on Mandatory Registration have paid attention to the doctrine of constructive destruction provided for in Article 10 (Tabatabaei Hesari, 2025; Tabatabaei Hesari & Ayinparast, 2023). Even in those works, the author merely refers briefly to the matter and states that "Article 10 of the Law on Mandatory Registration provides for the rule of constructive destruction in order to prevent disorder in society; a matter recognized in all systems adopting an objective registration regime, including England" (Tabatabaei Hesari, 2024). After outlining these generalities, the author proceeds to analyze other provisions of the law. Therefore, the present article seeks to examine specifically the various hypotheses concerning the implementation of the rule of constructive destruction based on the Law on Mandatory Registration.

## 2. The Approach of the Registration System Toward Constructive Destruction of Registered Immovable Property in the Iranian Legal System

The Iranian registration system, with respect to registered immovable property, is characterized by an objective registration regime, which produces particular legal effects, and these are examined in the present section.

### 2.1. The Objective Registration System for Immovable Property

One of the important components in classifying registration families is the criterion of the "registration model," the selection of which in any legal system is directly related to the objectives of the registration system in that country and entails specific principles. On the basis of this criterion, immovable property registration systems are divided into two categories: objective

(real) registration and personal registration. The key distinction between these two systems lies in whether merely the juridical acts and transactional documents concerning immovable property—regardless of the legal effect they produce—must be registered (personal system), or whether the legal result and effect of such acts, if they lead to the creation of real rights, must be recorded in the land register (objective registration system) (Tabatabaei Hesari & Ayinparast, 2023).

The Iranian legal system, pursuant to the Registration Law, has adopted an objective registration system for immovable property, a system under which property must be officially registered (Tabatabaei Hesari, 2019). However, in practice, this registration regime was not strictly observed, and subsequent legislation and judicial practice recognized ordinary (unofficial) documents as capable of legitimizing ownership (Azhdari & Khazae Fadafen, 2024; Khodadad & Amini, 2022). The registration system thus emphasized the principle of mandatory registration and recognized as owner only the registered owner or a person to whom ownership had been transferred and whose transfer had been duly recorded in the registration books. Initially, under the Registration Law of 1931, a period of absolute authority of official deeds was recognized, and ownership claims based on ordinary documents were not admissible. However, due to criticisms directed at this rigid approach, courts moderated this position in 1951, and, relying on Article 22 of the Registration Law, accepted ordinary documents in property transfers. This shift led to conflicting transactions and property disputes throughout the country. After the Revolution and until 1991, the registration system moved toward consensualism, whereby property transfers were deemed valid upon offer and acceptance, and preliminary sale agreements (qol-nameh) were considered among the means of transferring property, further exacerbating property disputes. Ultimately, a period of renewed inclination toward formalism emerged, such that the Iranian legislator adopted various mechanisms—including instantaneous registration systems to encourage official registration, issuance of tracking codes, and finally the Law on Mandatory Registration—reflecting a decisive move toward strengthening the formal registration regime (Tabatabaei Hesari, 2024).

The “Plan for Mandatory Official Registration of Real Estate Transactions” represented the most recent effort of the legislator to deprive ordinary transactions of legal effect and to grant absolute validity to official real estate transactions. It was approved by the Tenth Parliament in May 2020 and, following numerous objections raised by the Guardian Council, was ultimately referred to the Expediency Discernment Council and approved on 16 May 2024, thereby becoming law (Ahmadlou, 2025; Tabatabaei Hesari, 2025). This law reflects the doctrine of constructive destruction in the context of strengthening official documents and protecting third parties, although it is not without criticism (Alsan et al., 2024; Azhdari & Khazae Fadafen, 2024).

## 2.2. *The Objective of Granting Authority to Official Deeds under the Law on Mandatory Registration*

One of the most significant objectives behind the enactment of the Law on Mandatory Official Registration is to confront the legal effect of ordinary documents and to prevent the annulment of official deeds, so that many disputes and problems arising from ordinary documents may be resolved and issues such as land grabbing, tax evasion, multiple sales of a single property, transactions intended to evade debt, and similar abuses may be reduced to a minimum (Ahmadlou, 2025; Tabatabaei Hesari, 2024). For many years in Iran, substantial problems existed in the field of immovable property due to informal transfers of unregistered properties or properties held under undivided (co-ownership) deeds, which led to increased judicial caseloads, inability to identify true owners, obstacles to completing the cadastral system, money laundering, fraud, and related consequences (Azhdari & Khazae Fadafen, 2024; Khodadad & Amini, 2022). In this context, the Leader of the Revolution, on 27 June 2023, in a meeting with the Head and officials of the Judiciary, described informal transactions of immovable property as one of the major sources of corruption and emphasized that such transactions must be deprived of legal validity, and that even if the Guardian Council had objections to the parliamentary approval, the definitive expediency of the country required the final enactment of the law (Ahmadlou, 2025).

Article 62 of the Law on Permanent Development Provisions of 2017, which was intended to end judicial inconsistency and terminate the validity of ordinary documents, provided for the impossibility of opposing an official deed by means of an ordinary document. However, following the objection of the Guardian Council, the phrase “except documents which, according to the court’s determination, possess Sharia validity” was added during the legislative process, thereby undermining the

principal purpose of the provision and, in effect, granting greater validity to ordinary documents. As a result, the issuance of decisions of non-hearing in property claims based on ordinary documents—which had previously been issued by some courts pursuant to Article 48 of the Registration Law—became impossible, compelling judges to enter into the merits of such claims and giving rise to new divergences in judicial practice (Tabatabaei Hesari, 2019).

A legislative proposal to add a note to Articles 323 and 325 of the Civil Code, aimed at preventing the annulment of official deeds on the basis of ordinary sale agreements and at establishing the theory of constructive destruction in place of invalidation of ordinary documents, was introduced but never enacted; nevertheless, its underlying rationale was partially reflected in the Law on Mandatory Official Registration of Immovable Property Transactions (Tabatabaei Hesari, 2024). In this regard, by emphasizing the authority of official deeds, the law prevents the annulment of official deeds on the basis of ordinary documents or underlying transactions, such that an official deed cannot be invalidated merely on the basis of claims grounded in foundational contracts. Therefore, if an individual is found entitled, instead of annulling the official deed, the legislator recognizes that person's right to receive the current market value; regarding the property as constructively destroyed in such circumstances is based on the principle of the sufficiency of official registration (Alsan et al., 2024; Tabatabaei Hesari, 2019).

The principle of the sufficiency of registration constitutes the most important objective pursued by the Iranian registration system under the Law on Mandatory Official Registration. Constructive destruction represents the consequence of this principle. This principle is designed to protect a third-party transferee who, at the time of transaction, relied on the information available in the registration system and was unaware of hidden transactions, defects, or transactional errors in prior chains of title (Tabatabaei Hesari & Ayinparast, 2023). This principle is reflected in Articles 1, 3, 10, and 11 of the Law on Mandatory Official Registration of Immovable Property Transactions (Ahmadlou, 2025; Tabatabaei Hesari, 2025). In essence, under the principle of the sufficiency of registration and the application of the theory of constructive destruction as its enforcement mechanism—particularly as reflected in Articles 1 and 10—registration of the transaction is not merely evidentiary in nature but constitutive of rights and possesses intrinsic legal value.

Although the Law on Mandatory Registration aims to strengthen the authority of official deeds and prevent annulment on the basis of ordinary documents, it must be acknowledged that the greater difficulty lies not in the statutory text itself but in divergent and conflicting judicial interpretations. Accordingly, judicial practice must be guided toward recognizing the advantages of implementing constructive destruction and the principle of the sufficiency of registration; otherwise, even the enactment of this law will not suffice to achieve its objectives (Tabatabaei Hesari, 2024). The non-acceptance of in rem claims concerning such properties has led legal doctrine to seek interpretations of these provisions that would have the least disruptive impact on the legal order established under the Registration Law (Tabatabaei Hesari, 2019).

The Law on Mandatory Registration aspires to establish a comprehensive system for immovable property and, for this purpose, has provided for the establishment of a property registration system. This system reflects the mirror principle. According to the mirror principle in land registration systems, the land register must function as a complete reflection of real rights and must disclose the legal status of the property to third parties (Tabatabaei Hesari & Ayinparast, 2023). Under the new system, not only real rights but also certain obligatory rights must be recorded in the electronic registration system, because Article 1 of the Law on Mandatory Official Registration of Immovable Property Transactions declares the registration of all juridical acts transferring ownership rights, as well as commitments to perform such acts, to be mandatory. Some scholars consider this comprehensive registration approach to be among the achievements of the law (Khodadad & Amini, 2022).

### **3. The Approach of the Law on Mandatory Official Registration of Immovable Property Transactions toward Constructive Destruction**

Article 10 of the Law on Mandatory Official Registration addresses constructive destruction (*talaf hukmī*); however, the ambiguities embedded within the statute render the scope of application of this doctrine subject to significant challenges, which will be examined in the present section (Ahmadlou, 2025; Tabatabaei Hesari, 2024).

### 3.1. *The Impossibility of Annulment of Official Ownership Transfer Deeds*

One of the foundational rationales for the emergence of land registration systems is the mitigation of legal risks faced by transferees. The most significant among these risks are the “risk of invalidity of the transferor’s title” and the “invalidity of the transaction between transferor and transferee.” In order to address such risks, the doctrine of “indefeasibility of registered title” has been recognized in land registration theory (Tabatabaei Hesari, 2025).

This doctrine is clearly reflected in the Law on Mandatory Registration. Even fraud or forgery committed with respect to a registered property does not lead to restitution of the property and does not undermine the principle of indefeasibility of the official deed; in such circumstances as well, constructive destruction is applied pursuant to Article 10, although in many legal systems fraud constitutes an exception to indefeasibility. Nevertheless, in a seemingly contradictory move, Note 5 to Article 1 provides that claims concerning transactions concluded prior to the entry into force of the law may be examined if the Head of the Judiciary determines the validity of ownership documents of such properties, even where they have not been registered. In other words, this note appears to reopen the door to claims against official deeds, thereby calling into question the legislator’s objective, unless such claims are also subject to the doctrine of constructive destruction and annulment of official deeds is rejected. Indeed, it would be inconsistent to accept constructive destruction in cases of forgery and fraud concerning registered property while refusing to recognize it with respect to unregistered property. Such inconsistency creates an undesirable tension within the statute (Azhdari & Khazae Fadafen, 2024; Tabatabaei Hesari, 2024).

The Law on Mandatory Official Registration of Immovable Property Transactions was enacted with two principal aims: “granting absolute authority to official ownership deeds” and “depriving ordinary property documents of legal validity.” However, due to the lack of coordination between its provisions and the registration model established under the Registration Law, as well as numerous ambiguities, conflicts, and exceptions embedded within it, the law has, to a considerable extent, diverged from its intended objectives and may give rise to new disputes and inconsistencies in judicial practice (Tabatabaei Hesari, 2024).

Article 1 of the law explicitly provides that judicial and administrative authorities shall recognize as owner the person in whose name an official deed has been issued. Furthermore, Note 3 to Article 3 states that any juridical act between parties shall be valid only within the framework of Article 1. Accordingly, official registration of immovable property must be regarded as mandatory; once officially registered, ownership claims against the registered owner are inadmissible, except for personal claims for restitution of consideration. In cases of official registration, constructive destruction applies, and only the value of the property may be claimed (Ahmadlou, 2025; Tabatabaei Hesari, 2025).

Pursuant to Article 10, where property has been registered in the electronic system and an official deed has been issued by notary offices, and a subsequent ownership claim is raised by another person, the true claimant—if successful—may only receive the current market value. This reflects the application of constructive destruction. The legislator, seeking to protect good-faith third-party purchasers, has provided for constructive destruction as a remedial mechanism. Consequently, the exercise of a right of rescission by the seller or the automatic termination of the initial contract does not invalidate a subsequent transaction nor result in restitution of the property; rather, it merely entitles the original seller to claim the current value of the property (Alsan et al., 2024; Tabatabaei Hesari & Ayinparast, 2023).

This means that if property is sold between two parties and subsequently transferred by the buyer to a third party who obtains an official deed, the original seller’s claim for rescission or mutual dissolution cannot be heard against the third party; only the value of the property may be claimed. However, not every transfer falls within the scope of constructive destruction. Only transfers conducted through the official registration system are covered. Thus, handwritten or typed sale agreements or draft contracts—even if recorded preliminarily—are not subject to the doctrine of constructive destruction (Azhdari & Khazae Fadafen, 2024).

Prior to the enactment of the Law on Mandatory Registration, some courts, in order to preserve public order and protect good-faith third parties, had already rejected annulment of official deeds, although opposing decisions also existed. Judicial reasoning often emphasized that ordinary private agreements could not prejudice the rights of good-faith third parties who had acquired official title, and that breach of contract remedies should replace restitution of the property itself. In such cases, the transferor’s conduct was analogized to destruction of the property, thereby justifying monetary compensation rather than

restoration of the asset. These decisions effectively treated issuance of an official deed as a paradigmatic instance of constructive destruction of the claimed immovable property. Consequently, the claimant was entitled only to claim the value of the property and related damages rather than the property itself.

In other decisions, courts invoked broader principles of fairness, public order, and statutory provisions to equate transfer of immovable property to a third party with destruction, thereby reinforcing transactional security and protection of good-faith transferees. As reflected in such jurisprudence, even prior to the Law on Mandatory Registration, certain courts relied on dispersed provisions of the Registration Law and related statutes to uphold the impossibility of annulling official deeds. With the enactment of Articles 1 and 10 of the new law, the application of constructive destruction in such contexts is no longer subject to doubt (Alsan et al., 2024; Tabatabaei Hesari, 2025).

Where a registered property contains a contractual condition granting a right of rescission, the request for confirmation of rescission must be submitted within fifteen days to the competent authority. Failure to comply with such procedural requirements may give rise to practical difficulties, including the formalization of rescission as a procedural act and the potential reopening of challenges to official deeds. Nevertheless, if rescission is not asserted within the prescribed time limits, constructive destruction may be applied pursuant to Article 10 (Tabatabaei Hesari, 2024).

As previously noted, the Law on Mandatory Registration seeks to fortify the legal status of properties registered in notary offices and to reinforce the authority of official deeds vis-à-vis ordinary documents. Article 1 renders any claim against registered property inadmissible, and Article 10 provides for constructive destruction in furtherance of this objective. The law thus accepts the extinction of in rem claims while allowing personal claims subject to application of constructive destruction. Accordingly, where a personal claim against registered property is upheld, the remedy consists not in restitution of the property but in payment of its current market value (Ahmadlou, 2025; Tabatabaei Hesari, 2025).

### 3.2. *Application of Constructive Destruction to Claims Brought against Property Not Registered in the System*

The system provided for in the Law on Mandatory Registration has been designed to ensure the updating of records and to strengthen secondary registration. Undoubtedly, in an optimal land registration regime, attention to secondary registration through continuous updating of property records is essential in order to secure public trust in the registration system (Tabatabaei Hesari, 2019; Tabatabaei Hesari & Ayinparast, 2023).

Article 1 of the Law on Mandatory Registration provides that individuals are obliged to register in the system any transfer of immovable property, including transfers of usufruct exceeding two years, lease-to-own transfers, transfers of the corpus of the property, pre-sales, and similar transactions. The enforcement mechanism stipulated in Article 1 is the inadmissibility of claims concerning such transactions after one year from the establishment of the property system. The same provision identifies restitution of consideration as the only admissible claim. In actions for restitution of consideration arising from unregistered juridical acts, the court shall order restitution if delivery of the consideration or exchange thereof is established; otherwise, the claim shall be dismissed. This framework raises significant questions. Under what circumstances is restitution of consideration possible with respect to property that has been entered into the system but has not yet undergone official registration? May constructive destruction be applied with respect to such consideration (Ahmadlou, 2025; Khodadad & Amini, 2022)?

The Law further provides that claimants are required, within two years from the launch of the system, to enter their documentation and claims into the system, and within two years from such entry, to take the necessary legal steps—whether by executing an official deed, filing a claim for specific performance to compel execution of an official deed, initiating related judicial proceedings, or undertaking any other required legal action—in order to obtain an official title deed. Following the claimant's action, the relevant authorities are obliged to record both the measures taken and their outcome in the system. After the expiration of the prescribed period, no further claim may be registered in the system. Upon lapse of the aforementioned deadlines and failure of the claimant to act, such claims shall not be admissible, enforceable, or opposable against public or state lands—including national lands, barren lands, crown lands, newly emerged lands, and coastal lands—or against good-faith third parties holding official title deeds.

Thus, similar to claims brought against property supported by official deeds, the legislator has clarified the consequences of non-registration in relation to property not entered into the system. Failure to register within the specified timeframes results in extinction of in rem claims concerning the property. In other words, the sanction for non-registration amounts to forfeiture

of real rights, the consequence of which is inadmissibility of related claims. After the entry into force of the law and the expiration of the transitional period, contrary to the literal appearance of Article 1, not only restitution claims but also personal claims may be entertained; however, instead of restitution of the property, the doctrine of constructive destruction applies (Alsan et al., 2024; Tabatabaei Hesari, 2024).

If no ownership claim has been recorded in the system with respect to a property, an individual may still assert ownership; similarly, where a claim has been recorded and subsequently rejected, a new claim may in principle be asserted. Article 10 of the Law on Mandatory Registration provides for constructive destruction as a mechanism to preserve stability in property relations (Tabatabaei Hesari, 2025).

Note 5 to Article 1 further provides that where property was transferred prior to the mandatory implementation of the law and was not registered in the system, the Head of the Judiciary may authorize adjudication of claims upon presentation of credible evidence. At first glance, this appears to reopen the door to in rem claims. However, when interpreted in conjunction with the other provisions of the statute, it must be understood that the legislator intended the application of constructive destruction in such cases as well. Since the law recognizes constructive destruction even in instances of fraud and forgery, it would be inconsistent to deny its application where property has been transferred in good faith to a third party through non-criminal means (Azhdari & Khazaei Fadafeen, 2024; Tabatabaei Hesari, 2024).

Prior to the enactment of the Law on Mandatory Registration, although judicial opinions differed regarding application of constructive destruction, numerous decisions accepted it. In many cases, repeated transfers of property, undertaken in order to preserve public order and to give effect to the Registration Law of 1931, were treated as giving rise to constructive destruction. For example, in a decision of the Tehran Province Court of Appeal (Case No. 9709970221801567), repeated transfer of property to a good-faith third party was deemed to constitute constructive destruction, and the court held that the good-faith purchaser could not be compelled to annul the title deed or return the property; instead, compensation equivalent to the value of the property was awarded. This reasoning reflects a judicial inclination toward protecting transactional security and good-faith reliance within the registration framework (Alsan et al., 2024; Tabatabaei Hesari, 2019).

### 3.3. *Application of Constructive Destruction to Claims Brought against Property Registered in the System but Lacking an Official Deed*

The legislator, in the Law on Mandatory Registration, has provided for a transitional period during which properties may be entered into the system but have not yet undergone official registration. The legal status of claims raised against such property during this interim phase has generated considerable ambiguity. Some scholars maintain that entry into the system precludes the admissibility of any claim, while others contend that system registration merely constitutes registration of a draft contract, which retains the status of an ordinary document. Under this latter view, not only restitution claims but also various other actions based on ordinary documents remain admissible, including claims for annulment of a title deed upon proof of bad faith of the official deed holder, claims for recovery of current market value premised on proof of falsity or inaccuracy of data uploaded to the system, claims arising from ordinary transactions concluded prior to the entry into force of the law upon authorization of the Head of the Judiciary, actions for confirmation of rescission, and actions compelling notary offices to register private agreements. Article 10 further recognizes that knowingly uploading false or fraudulent claims in the system may entitle the injured party to claim the current market value. The statute provides that the claimant may, in such circumstances, seek recovery of the property's value at current rates from third parties who knowingly registered forged or false claims or knowingly entered into conflicting transactions. Courts are obliged to accept such claims for recovery of current value. This provision reflects recognition of constructive destruction in relation to property registered in the system (Alsan et al., 2024; Tabatabaei Hesari, 2024). It may, however, be argued that the legislator intended application of constructive destruction only with respect to property that has undergone official registration.

Article 1 of the law, in its first part, considers registration before a notary office as the operative criterion, while in its second part it treats system registration as a basis for forfeiture of claims. This raises the question whether Article 10—which provides for constructive destruction—is triggered by registration in the notary office or by registration in the electronic system. In principle, the legally constitutive form of registration is entry into the “Land Register of the Registration Organization,” not merely electronic system registration. Similar to Article 22 of the Registration Law, ownership is recognized only where the

transaction has been entered in the land register. Accordingly, registration in the system may be interpreted as evidentiary in effect, whereas registration in the land register has constitutive effect. The ambiguity in the statutory drafting leaves room for divergent interpretations regarding whether electronic registration produces substantive or merely evidentiary consequences (Tabatabaei Hesari, 2024).

Considering the general objectives of the law, one might argue that system registration should suffice to trigger constructive destruction; yet this position raises serious difficulties. Registration of a standardized contract in the system resembles a draft agreement prepared by real estate brokers and not yet validated by a notary office. Real estate agents are not public officials, and their drafting of preliminary contracts cannot be equated with issuance of official deeds. Treating such drafts as equivalent to official registration risks undermining the institutional role of notary offices and generating parallel registration structures. Consequently, it is difficult to regard mere system registration as sufficient to extinguish in rem claims. Constructive destruction may instead be justified where objective indicators exist, such as transformation of the property's nature, repeated transfers, or issuance of an official deed in favor of a good-faith third party (Ahmadlou, 2025; Tabatabaei Hesari, 2024).

Although the law aims to deprive ordinary documents of legal effect, its internal ambiguities have enabled standardized contracts to re-emerge as quasi-official instruments. If system registration were deemed equivalent to official registration, it would effectively elevate real estate agents to the status of public authorities—an outcome inconsistent with the 1975 Law on Notary Offices, under which notary offices are the exclusive official authorities for drafting legally binding instruments. Electronic systems cannot guarantee the substantive validity of transactions. Therefore, mere entry into the system cannot automatically justify extinction of in rem claims (Ahmadlou, 2025). Judicial interpretation must avoid construing the statute in a manner that inadvertently re-legitimizes ordinary documents contrary to the legislative intent of strengthening official registration (Tabatabaei Hesari, 2024).

During the transitional period between system registration and official registration, various claims may still be brought, and courts will adjudicate them under general principles. Given that constructive destruction under general doctrine has itself been subject to controversy, courts face the question whether they may declare constructive destruction with respect to property registered in the system but lacking an official deed. Some scholars accept its application where transformation of the property has occurred, where repeated transfers have taken place, or where an official deed has been issued in favor of a good-faith third party, permitting recovery of equivalent or value rather than restitution of the property. This approach appears consistent with the underlying objective of the Law on Mandatory Registration, namely stabilization of ownership and protection of good-faith reliance. Transformation of the property—whether positive (increasing its value) or negative (diminishing or eliminating its economic utility)—has long been recognized as a basis for constructive destruction. Analogous reasoning may be drawn from statutory provisions requiring restitution of equivalent or value where return of the original asset is impossible. Conversion of land into a building, change of use, or attachment of third-party rights constitute paradigmatic instances of impossibility of restitution and thus justify monetary compensation rather than restoration of the property (Alsan et al., 2024).

System registration may also entitle the defendant to seek recovery of current value where the claimant knowingly registered false information or conflicting rights. Upon official registration, in rem claims become inadmissible, but personal claims remain available, with recovery limited to the current value rather than restitution of the property (Tabatabaei Hesari, 2025).

### *3.4. Adjudication of Claims for Constructive Destruction under the Law on Mandatory Registration*

As noted, constructive destruction is clearly applicable once a property has been officially registered. However, controversy persists regarding the procedural formulation of claims for recovery of current value pursuant to Note 1 of Article 1. Some jurists argue that, where conditions for constructive destruction are met, filing a claim solely for recovery of current market value suffices. Others contend that recovery of value presupposes proof of dissolution of the contract; therefore, in order to avoid procedural objections or dismissal, the claimant should combine a claim for confirmation of rescission with a claim for recovery of current value based on expert assessment. Although rescission is a unilateral juridical act effective upon declaration, and the court's role is merely to ascertain its validity rather than to ratify it, divergent procedural interpretations have emerged (Tabatabaei Hesari, 2024).

Note 1 to Article 1 employs the phrase “ratification of rescission.” At first glance, this wording might suggest that rescission has acquired a formal character requiring judicial ratification. However, it appears that the legislator’s use of the term “ratification” is intended merely to signify judicial confirmation of the legal effect of rescission rather than to create a distinct juridical category. Accordingly, whether the claim is framed as “ratification of rescission” or “confirmation of rescission,” both formulations are compatible with the purpose and spirit of the law and should not give rise to substantive or procedural objections.

#### **4. Conclusion**

The Law on Mandatory Official Registration of Immovable Property Transactions was enacted with the objective of reducing real property disputes before Iranian courts, which had long constituted one of the significant challenges within the national judicial system. Article 1 of the law provides for the registration of property in the electronic system and mandates the execution of an official deed, while establishing forfeiture of claims as the enforcement mechanism for non-compliance. Article 10, instead of permitting restitution of the property—an outcome that could entail severe financial, social, legal, and judicial consequences—introduces the doctrine of constructive destruction as the applicable remedy. In judicial practice, efforts to resolve longstanding disagreements regarding the application of constructive destruction have advanced to the point where even in cases involving criminal conduct in the process of official registration, restitution of the property has been rejected and constructive destruction has been applied.

Nevertheless, a comprehensive review of the law reveals ambiguities that cast doubt on the precise intent of the legislator. Although Article 1 provides that failure to register property transactions results in forfeiture of in rem claims, and Article 10 establishes constructive destruction as the applicable remedy, Note 5 to Article 1 allows courts—upon determination by the Head of the Judiciary and in the presence of credible evidence—to hear claims concerning properties transferred prior to the enactment of the law. In practice, this provision may give rise to interpretative challenges capable of undermining consistent application of constructive destruction. Despite this, it appears that, when interpreted in light of the general structure and purpose of the statute, even where claims are admissible under Note 5, the appropriate remedy remains application of constructive destruction rather than annulment of official deeds.

Another significant ambiguity concerns properties that have been registered in the electronic system but have not yet received an official deed. One view maintains that system registration is equivalent to official registration, particularly where such registration has been confirmed by the Registration Organization. A competing and more persuasive view rejects this position, reasoning that equating system registration with official registration would effectively confer public authority status upon real estate brokers who upload draft contracts to the system, thereby granting official status to instruments that have not undergone formal authentication. On this basis, registration in the system cannot be considered equivalent to official registration. However, in light of the overall objectives of the Law on Mandatory Registration and the executive regulations associated with it, claims against properties registered in the system may still be subject to the doctrine of constructive destruction, particularly where ownership has been transferred to a good-faith third party. If the legislator accepts constructive destruction even in cases where property has been acquired through criminal conduct, it would be inconsistent to deny its application in cases involving good-faith transfers.

Ultimately, the Law on Mandatory Registration firmly rejects claims brought against properties that have been officially registered and supported by an official deed. Article 1 declares forfeiture of in rem claims, and Article 10 provides that, in the event of personal claims, constructive destruction shall apply. In practical terms, under no circumstances may an official deed be annulled; the only available remedy is recovery of the current market value of the property.

#### **Ethical Considerations**

All procedures performed in this study were under the ethical standards.

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## Conflict of Interest

The authors report no conflict of interest.

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## References

- Ahmadlou, S. (2025). The Law on Mandatory Official Registration of Real Estate Transactions: A Step Forward or a Step Backward? A Look at the Consequences of Gradually Removing the Authority of Notary Offices in the Property Transaction Process and the Expansion of Parallel Institutions. *Kanun*, 200, 13-20.
- Alsani, M., Isari, M., & Fathi, M. (2024). The Foundations of the Legal Destruction Institution and its Utilization: A Strategy for Protecting the Validity of Official Documents. *Majlis and Rahbord*, 31(117), 415-444. <https://doi.org/10.22034/mr.2022.5290.5056>
- Azhdari, A., & Khazaei Fadafen, A. (2024). Analytical Study of the Plan for Mandatory Official Registration of Real Estate Transactions for Ordinary Documents.
- Khodadad, J., & Amini, M. (2022). Evaluation of the 'Mandatory Official Registration of Real Estate Transactions Plan' with a Comparative Approach. *Registration Law Research Journal*, 1(1), 181-214. <https://doi.org/10.22106/rlr.2021.523591.1022>
- Tabatabaei Hesari, N. (2019). *Foundations and Effects of the Property Registration System* (First Edition ed.). Enteshar Publishing Company.
- Tabatabaei Hesari, N. (2024). A Critical Perspective on the Approaches of the Law on Mandatory Official Registration of Real Estate Transactions in Resolving Property Transaction Challenges. *The Journal of Quality Justice*, 88(128), 1-32. <https://doi.org/10.22106/jlj.2024.2039328.6023>
- Tabatabaei Hesari, N. (2025). *The Role and Function of the Deeds and Properties Registration Organization and its Powers with Amendments Based on the Industrial Property Protection Law and the Law on Mandatory Official Registration of Real Estate Transactions* (Fourth Edition ed.). Judiciary Publications.
- Tabatabaei Hesari, N., & Ayinparast, S. (2023). The Position of the 'Registration' Institution in Ensuring the Legal Stability of Movable Property and Transactional Security with Emphasis on Collateral Transactions. *Private Law Studies*, 53(4), 581-601. <https://doi.org/10.22059/jlq.2024.337869.1007642>