

An Overview of recent Legal Developments in the GCC Real Estate Sector & the Impact on Foreign Investors

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There is no doubt that the real estate boom is a GCC phenomenon. With an ever increasing number of projects underway, the industry is attracting further investors who are shifting their focus from stock markets to the real estate sector.

To this end, the GCC countries are trying to cope with this extraordinary surge by issuing modern laws and regulations to establish an organized and transparent real estate sector with a view to attract foreign investors.

The last few years have seen some major legal developments within the industry throughout the GCC region.

United Arab Emirates

Dubai

The Emirate of Dubai was the first to legalize the ownership of freehold property for expatriates. Foreigners have the right to purchase properties in determined areas, and the purchased land will be registered in the name of the buyer with the Dubai Land Department.

However, some of the Issues and fields that remain ambiguous and subject to interpretation are as follows:

- **Common hold**
Each building located in the determined areas will be considered as a single property and will be granted a single title deed. Accordingly, common hold owners own jointly the land, and as such issues could arise in the event the building is expropriated.
- **Real Estate Management Services**
The Real estate management services companies are not regulated by Law No.7 of 2006. The rules regulating this activity are set out by each company, and as such there are non consistent rules applied, across the Emirate, on all the real estate management services companies.
- **Mortgage**
The mortgage conditions are left to the sole convenience of the banks and financial institutions. We believe that this sector needs an urgent regulatory framework clarifying the position of the lender facing the financial institutions providing the loans.

Abu Dhabi –

The Emirate of Abu Dhabi (including Al Ain) has permitted the ownership, development, leasing and mortgaging of land and property for non-UAE nationals in the investments zones, and has established recently a Land Registration Department at both the Abu Dhabi and Al Ain Municipality Departments.

However, right of ownership of an apartment unit or floor in a building does not include by association, a right to a share in ownership of the underlying land on which the building is situated. Non-UAE and GCC nationals may also acquire a right of *usufruct* (the right to use and exploit it property belonging to another person) for a period of up to 99 years and a right of *musataha* (the right to build and develop on the land belonging to another person) for a period of up to 50 years, both being renewable by mutual consent. These 'ownership' rights are principal rights and the Law recognizes that they are capable of being sold, mortgaged, pledged or assigned.

Ras Al Khaimah

Foreigners enjoy complete ownership of properties within Ras Al Khaimah (RAK) Properties' projects in Ras Al Khaimah only.

Umm Al Qaiwain

Property ownership in the Emirate is restricted to UAE and GCC nationals or corporate bodies owned by them.

Foreigners can only lease hold properties for a 99-year period.

Ajman

Ajman announced freehold properties in designated areas.

Despite the fact that Ras Al Khaimah and Ajman have legalized freehold ownership for foreigners, there are still major concerns regarding title deeds, inheritance and mortgage.

Sharjah and Fujairah

The two Emirates have not yet legalized freehold ownership for foreigners.

Foreigners can only lease hold properties for a 99-year period.

Kingdom of Saudi Arabia

Non-Saudi investors, whether they are natural persons or corporate entities, may own real estate required for the conduct of their licensed professional, technical or economic activities, subject to approval from the licensing authority.

Non-Saudi natural persons holding normal legal residency status in Saudi Arabia may own real estate for use as a personal residence subject to obtaining a permit from the Ministry of Interior except for the properties located in the city limits of Mecca and Medina.

However, the prior authority approvals along with the residency prerequisite remain the main obstacles that are hindering the foreigners from investing in the Saudi real estate sector.

Qatar

Qatar Government's decision to open the country's real estate market to foreign investors was formalized recently.

The regulations of ownership and usufruct of real estate and residential units by non-Qatari's provides for ownership of real estate of any description by Qatari and non-Qatari nationals in specific projects. It also stipulates that Qatari and other GCC nationals may own real estate of any description in investment areas designated by the Cabinet resolution.

However, the right to freehold ownership is restricted to specific developments: The Pearl - Qatar Island, West Bay Lagoon and Al Khor. Properties in high-rise buildings in residential areas and in government designated 'Investment Districts' are sold subject to 99-year lease conditions.

Bahrain

Expatriates are eligible to own property in Bahrain. Under Bahrain law the owner of a freehold property enjoys a self sponsorship Residence. A foreigner wishing to purchase freehold property in Bahrain, whether for investment or residential purposes, is permitted to buy residential or commercial property in five specifically designated areas of the capital city of Manama.

Oman

Government legislation to permit foreign ownership on specific developments is currently subject to the Court approval process. Legislation permitting foreign ownership on specific real estate projects has now been passed, allowing freehold ownership by all nationalities in so-called tourist designated areas. This allows foreigners to buy for either investment or occupation purposes. All owners will be granted residency visa rights.

Conclusion:

It is evident that the real estate sector within the GCC region is of tremendous interest to foreign investors and the recent developments prove that this interest has been noted and is being encouraged by the respective governing bodies. However, despite the new regulations of property ownership in the GCC countries, there are still material concerns in the legal and regulatory procedures including, but not limited to, government approvals, mortgage laws, mortgage regulation, deed title registration, residency issues and inheritance laws.

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