

Process Objections to the Registration of Property Rights

Ali Mohammadi* Fatemeh Zahmati

Department of Law, Damghan Branch, Islamic Azad University, Damghan, Iran

*Corresponding author E-mail: shaban1362@gmail.com

Abstract

objections to the registration of property rights is one of the critical issues in the real estate registration. protest records following the application of property by another person or to some or easement rights that been announced by the person to the office of record, have objected, on condition that this objection. in accordance with the relevant procedures and the time is done. records of complaints, significant issues is proposed. this kind of protest, notice of protest, objection handling of reference, including the discussion of the is. in the context of the protest, the real estate registration act and its implementing regulations conflict there. in this paper, the concept of object records, forms the object and the reference period to handle complaints records will be reviewed.

Keywords:Registration rights, property, protest

Introduction

Literally point of the protest, remonstrate, retail decision making is prohibited. Registration also literally means down, Writing, content writing is in office. Legal terms it can be said that the protest is filed The application by another person or to the property or rights of easement by that person Registered Office announced, and according to due process and the deadline to protest, protest For the investigation of complaints recorded, in addition to the provisions of the Civil Procedure Code, to specific provisions contained in the act and the rules and regulations of the Law of Real Estate Registration and Records circulars Iran Note. Objections to the registration of property Procedure to deal with objections property records, including how to plan protests and references Review of the case is examined in this paper are .Protests records are divided into three categories: 1) objection to the registration of property 2) protest about 3) the rights easement, split each of these objections, are considered separately.

1. First Speech: On the registration of property

In this article, the date of objection to the registration of the property, then how in the end of the protest, the agency records are reviewed.

Section I: Early protest

Section I: Early protest

Deadline to object to the registration of property, ninety days after the date of publication of the first notice and turn on Article 16 Iran Registration Act, protesters must turn within 90 days of the first notice of foreclosure, and if publishing Ads by detection of the Supervisory Board, to be renewed, within thirty days from the date of publication mentioned in Article Registering property, protest comes to action. The following are the errors that would effectively shift ad

Appeals will be advertised: 1. Registrant's name wrong. 2. In cases where the applicant is wrong last name or last name was not on the banners ads intermittent full name is wrong. 3. wrong place at the property.4. The wrong type of property, such as a garden, the house and shop advertised or rather, just the house is advertised In the latter case than in the same part of the ad ad is not to be renewed. Mistake No. 5 in the property. 6. mistake than the amount requested, if it is less than the amount requested to be advertised Less than advertised, the ad is published. 7. The number of minor errors in the property in cases where the mistakes were made in the declaration and the ad is intermittent. Appealed directly to the office or department or branch registration in the ad rotation is specified, give the If the protest deadline, the registered office of the court that a reference to the office address, and write If the Department determines that the petition is filed outside the time allowed, the court shall direct Primitive to the notice of the meeting of the Administrative Court's decision. The verdict in this case If the protest is final registration deadline, registration office objected to the court Sends the file registration, stamp objected, is estimated (cases 89 and 92 of the Code of Registration Act). Currently, however, the amendment to Article 86 of the Regulations Registration Act, contrary to Article 16 of Law Sign in Iran, have any objection to the registration of the registered office, the opposition must be within one month from the date of Objection to the registration office, the lawsuit does not provide a certificate of registration to the office and other offices The record does not send the dispute to court. Thus, a conflict between Article 16 of the Registration Act of 86 There's amended registration law. Because in Article 16 of the registration, the registration office Now that the court has a duty to object to the amended Article 86, protesting the task And, according to Article 16 of the Registration Act and the amended Article 86, Regulations It is, accordingly, the law, priorities and procedures should be in conflict with the law. In this context, the beneficiary can Nullification

of unconstitutional regulations apply to the court. If the protest turns out to be, registered office in writing comments and the Court of First Instance Invited to present at a meeting of the administrative record in office and the decision (Article 97 of Regulation Iran Registration Act). This is necessary due to submit objections to the registration office First, after the protest submitted to the Office of the Registrar, the Office of the notice of opposition, the continued operation of the records However, if the objection and refused to give another reference, it is possible to handle the stability of despite not aware of any claims and objections, the Registry continues. Second: If the file is recorded in the Office of Records and rotating banners, first protest submitted after the registration office, The Office of the notice of opposition, from continuing operations will decline, while if it is registered, Another reference to lodge objections to the registration office may not be aware of the protests and despite the Objection, the registration continues. Third: If the file registration and registration is advertised once in office, upon receipt of the objection, immediately and without The need for further action can be determined that protest is lawful or out of it, but if the Submitted another source, such as the reference of the publication does not know and can not turn quickly And ease, whether within or outside of lawful protest to detect. The objection must Circle branch office or directly to the records specified in the ad rotation is usually the same office or department or Branch that emits intermittent ads submitted.

Section II: How to plan protest

As noted earlier, the objection to the registration of property, done in two ways: 1) submitted a petition, the Registration Act and Article 16, 86, 88 and 89 of the Regulations Act, the objection must If the petition and litigation costs be paid. But for the right to object to the registration of intermediaries Do not waste the short duration of the protest, of 88, 89 and 91 of the Regulations provides that a written objection to the Although not in any way that leaves petition must be filed by the Office of acceptable and if The moratorium be submitted to the competent authority. In this case, the offer of protest in any way, except that leaves even wanted to practice with regard to the amendment of Article 86 have been canceled in accordance with Regulations That the amendment referred to in the preceding paragraph, protest after protest to the office of registration is necessary Petition to adapt the provisions of the Civil Procedure Code and the court set the offer. It is worth noting that in the case of a division, in both financial and non-financial claims are divided into: a financial dispute, litigious, which directly leads to the acquisition of a property to be delivered as a single claim of the apartment. Claim Non-litigious not directly lead to the acquisition of property, although it may indirectly Leading to the acquisition of property, such as discharge lawsuit also claims the tenant and obedience. Some believe that the claim Objection to the registration of a financial claim that their argument is that, with regard to the objection on the property that its application, has been asked to be more precise, the application object property There is a certain monetary value, so the objection to the registration of a financial claim, and the claim as yours Is immovable, based on the collection of government revenue and expenditure approved in certain cases 73, on the basis of regional price to pay prosecution costs and stamp tax and other laws Focus is on the financial claim, action should be calculated and some lawyers also say: "According to Article 16 and Article 86 Registration Act Regulations Registration Act, shall, within the period prescribed by the opposition (one month from the date of Submission to authority records) submitted a petition to the competent authority. The petitioner submitted that where Claim ownership of protest, the protest fee must be paid to the Financial Claims Procedure " (Mirzayi, 1383: 69). It appears that the claim objection on the record, is a non-suit, because the objection to registration Property, directly leads to the acquisition of property and therefore should not be the case, the case was non. As far The authors have used garlic and procedures that the trial court's objection to the registration component is non-litigation and litigation costs of the proceedings will receive. On the right type of claim, claims are divided into movable and immovable. If the claim of a property Is movable, it claims, litigation, real read as requiring the delivery of a specific car, but if Subject to a lawsuit, claiming immovable property such as apartments, the case is immovable object . registered, Except for claims, as the case immovable, always about a year than it is immovable, Registration is requested. therefore, the claims in the jurisdiction where the property is immovable (Article 12 of the Civil Procedure Code). 2) submit the certificate of the lawsuit, filed against Article 17 of Law, where between the Registrant and who It wants to protest, before publication intermittent, litigious on the property during the court proceedings and is not required to submit a petition in protest and in these cases, the person who wants to Sign objected, within the statutory period (ninety days of the publication of the first notice intermittent) certified court's In the case of registered office, surrender. The certificate, as a protest, and the need to pay Cost rehearing and other formalities relating to the case, and the case presented in court case Objection shall be deemed registered office according to court testimony, the record stops.

Section III: Administration of Registration

Objection to the claim, the date of publication of the first notice intermittent, within ninety days from the date of publication Corrective advertising (in cases where the diagnosis is revised Supervisory Board) within thirty days, the principle Property and opposition to the limits and easement rights, within thirty days from the date of the regulation if the Delimitation takes place within the time out period is otherwise objectionable. Whether inside or outside of lawful protest, complete or incomplete, and should specify the objector History will be made and the

date should be mentioned case (Article 90 of the record) and immediately returns (In the case of objection to the registration) and if the restriction and return (in the case of protest or rights Easement) to seal the word of objection on the role, function blocks (Article 89 of the Code of registration Real Estate Iran). Accordingly, whether inside or outside of lawful protest, complete or incomplete, you should: 1) be in writing, whether in court or in the reference calculation must be registered and Protesting Date, and date will be given to letters should be mentioned (Article 20 and Article 90 of the Registration Act Regulations Registration). 2) returns immediately (in the case of objection on record) and if the restriction and return (in the case Protest about or easement rights) to seal the word of objection on that role, it is imprint (Article 89 Regulations Registration Act) and for every object is a sealed, so that if, for example, to Five civilians protesting the application is received, five times on October protest statement to be made. 3) As mentioned in the first paragraph of this article, until 1380, whether in the form of protest Regular or petition forms, the registration office and protesting assignment offered to donate Petition the court was not competent. Operating staff filed a petition objecting to the number of copies to be added to the registered office. (Article 91 of the Regulations Registration Act). In 1380, protesters took over a month of submission Objection to the registration authority, presented a petition to the competent court and give evidence to the registration authority. Registration Act amended under Article 86, which refer to the applicant's failure to perform such act Registration or his legal representative submitted a petition to the court and received clearance from protesters court and submit it to the Office of the Registrar, and not according to the records office to protest continue. so All protests and petitions presented to the registered office of the protest must be submitted within one month from the date of Protest, to be submitted to the competent court. If the protest is legal at the time, the registration office shall immediately file a copy of it Records archives and records the operation stops and the object leads to one month from the date of submission Objection to the registration office, the petition to the competent court and the evidence submitted to the registration authority. If the certificate is provided, the final decision of the court, the record stops. If you do not Instituting legal proceedings and provide proof of the absence of a case filed by the applicant, regardless of their registered office Objection, the registration process continues. However, procedures and practice, the registration offices to spend for one month Failure to submit the certificate submitted a petition protesting the protesters to continue the registration process and to Protests go unnoticed and waits for clearance petition submitted by the applicant are not registered. If a protest outside the statutory period, the president's office to register your out of date Law, the objection petition or affidavit says the lawsuit and the President of the Court of First Instance Notice. The judge is obliged to handle such cases once a week during the Registered outside official positions and when the President agrees, be present at a meeting at the office of administrative theory and Cast your vote below or certificate referred to in Article 17 by the time the assignment and final objection certificate to the Is unknown. The cabinet meeting, the head of the records or his legal representative will be present (Article 97 of Regulation a Registration Act). The latter part of Article 16 Registration Act, the court in this case is certain. If Lawful protest outside the office of the court records, that it is not. Head of the Registry Office To determine the total registered office of their respective sends (Article 96 of the Regulations Registration Act) to Through the Office of the measures to be taken in Article 97 of the Regulations.

The second speech, protest about

In this article, the date of the protest, the protest and eventually how to plan, manage the records checked.

Section I: Early protest

The deadline to protest on behalf of persons eligible for it, according to Article 20 of the Registration Act Amendment 2 single article of protesters case law rule that no record or record their protest against authorities Defunct Justice Act 1373, thirty days after the delimitation is to be adjusted. If you already have, The lawsuit was brought, as a protest objecting to the registration certificate of the cases in which The court within thirty days from the date of the regulation if the delimitation, the registered office offers. With However, some lawyers believe that if you apply before the applicant and other litigious And is brought on stream. With intermittent publication should claim for ninety days, authentication Court To submit the case to the Office for registration. He will overthrow the sublime (Tfkryan, 1386: 75), this Disagree with the sentence in Article 20 Registration Act, it seems.

Section II: How to plan protest

The protest filed in accordance with Article 20 and Article 74 of the Regulations, such objection on the record, in writing, to the Office The site is registered and if the lawsuit has already been discussed, as has the registration certificate During the court case in which the Court, within a period specified in the preceding paragraph, the registered office will be provided. How to accept the petition and protest actions after the record as to avoid duplication Content of expression, it is not. In this case, the object must be submitted within one month from the date of Objection to the registration authority, the petition submitted to the judicial authority. (Article 74 of th Regulations Registration Act And amended Article 86).

Section III: Administration of Registration

Sign in protest actions about similar actions in protest on the record. If the protest protesters

The deadline (thirty days from the date of the regulation if the delimitations) expired under articles 74 legal regulations Registration and the amended Article 86, within one month from the time of the protest objecting to the registration office, Protest petitions submitted to the competent court and registration certificate to the Department offers. Before Adoption of the amended Act 86 of 1380, the Bureau filed objections to the court Send and record the declaration and delimitation, stamped "objected" was expired. With Adoption of the amended Article 86 of the 1380 Enforcement Administration registration of non-submission of the petition, Registration office to protest the lack of attention. If the object is out of date, registered office in accordance with Article 20. Article 16 Registration Act Registration Act Extend it to protest about the easement rights have been accepted in writing and will express its opinion The court where the judge will consider and vote and vote according to the judge's Certain topic. However, in practice, some of the registered office, to spend a protest outside the legal time Or failure to provide proof submitted a petition to the court, the legal time, to continue operations and other records The trial judge, for consideration and decision, were not invited to it is against the law. In some cases protesting about, instead of inviting the President of the Court or a court of competent competent , the case is sent to the Board recognize the vote of the Board in this regard is final. Article 145 of Law Record in this field, provides: "In the center of each province or regulations adopted by the Governor General's Department Justice and the Ministry of Cooperatives and Rural Affairs, the staff member's name recognition is to perform the following tasks To: A split between the farmers and the delimitation of parts or specific parts of the owner or legal Exceptions Land reform, despite differences in the receipt of the objection, to address and resolve the issue and determine notice Its final task, a protest about whether the protesters, occupying or adjacent restriction fragment The delimitation piece of history appealed to 30 days after the end of the delimitation of the last piece The property will be advertised complaints received through the registration site will be submitted to the Board ... " In these cases, the objection must be raised, and if the staff recognize the court, The court shall issue an incapacity to recognize the competence of staff and their refusal to deal with protests a.

Second discourse: On the easement rights

Article 93 of the Civil Code, the definition of the easement states: "The right to private property easement Other. "This definition is not accurate because it includes other rights as mortgage on also be objective. The Hence, as some scholars have said, should be defined in said easement is a right which The owner of the property on account of your property, you can use another's property (consistory, 1387: 233). Right The water flows through the property right of another or property belonging to another, such easement rights are. The person on the other land, easement, but the landowner at the time of application for registration of property, He did not mention the easement. In this case, the holder of the easement would be subject to the objection that this protest is registered as a form of protest for the rights Easement, the first time the objection, the objection to the plan and in the end, the Office of the Registrar, expressed Be.

Section I: Early protest

Eligible protest protesters easement rights, in accordance with Article 20 Registration Act, within thirty days from the date of If the regulation, delimitation, can easement rights to protest and if the demand Registration, the applicant and he brought the lawsuit is pending in a court certificate shall be based on The registration office to lodge a claim.

Section II: How to plan protest

Reference to the rights easement, registered office and protesting place within thirty days from the date Set if the delimitation of your objection to the registration office within a month of protests, petitions submitted to the judicial authority and obtain a certificate of registration and to manage delivery location (the Article 86 Amendment Bylaw Registration Act passed in 1380). Registration pursuant to Articles 20 and 16 of the law in this area, protesters have registered their protest to the administration and management of records returned if the protest The deadline is, it sends to the court. In this regard the law prior to its Regulations. But practically as far as the authors are aware of registration offices, act in accordance with the Regulations. Therefore, Now, according to Article 86 Amendment Bylaw Registration Act, the objector must also submit Its objection to the registration office within one month from the date of submission of protests, petitions the court Also submitted a registration certificate and submit it to the office, otherwise, presenting a certificate of non-plan Claim by requesting registration, the registration will continue. If the earlier application, the applicant claimed easement, litigious proceedings are pending, the plaintiff Must be made within thirty days from the date of setting the delimitation, the Court certified the case to the Registered Office surrender. Circumstances of the present petition and subsequent actions, such as the present petition Objection on the record.

Section III: Administration of Registration

Sign in protest actions about similar actions in protest on the record. Of protest If the easement rights to protest, protesting the deadline (thirty days from the date of the regulation if the delimitation of the device). Accordance with Regulation 74 of the Registration Act and the amended Article 86, a protester in a month Since the submission of objections to the registration office, protest petition submitted to the court competent to manage

the registration certificate and offers a. Prior to the adoption of Article 86 Registration Act Amendment Act of 1380, If objections were raised to the deadline, registered office objected to address the court Send and return the form on the delimitation, "objected" to be painted If the object is out of date, registered office, comments and invites the Court to Decision shall be final judgments issued.

Conclusion

Objection to record the objection to the application filed by the applicant for registration of property Property, or objection to the boundaries declared or easement rights are property declared by the Registrant. Reference to handle objections records, sometimes, sometimes the court office where the property is registered. Registered under articles 16 and 20 of the Act, a petition objecting to the registration of the easement rights, the registered office of delivery Is. If the protest is the deadline, will be sent to the court and otherwise If your comment in writing to the Office of the General Counsel and the location of the property, inviting To the presence of the registered office, its decision. Judge, is conclusive. Article 86 Regulations Registration Reform Act, enacted in 1380, after submitting the objection to the registration office, protesting within one month, And certified by a competent court lawsuit it filed in the office. Thus, the Registration Act and its regulations, In this context there is a conflict. However, in such cases, given the primacy of law rather than regulation The law applicable shall be the registered office practice (as far as the authors are aware of the study), adopt regulation A act Objection to the registration application must be filed in the office. The reason for this is: 1) Since the deadline for objections to the application since the publication of the first notice of the time and about And easement rights, setting the date, if the delimitation of the registered office of which is easier to detect Objection deadline is given or not. 2) If a timely objection, the Department filed with the notice of objection made at the deadline, Registration process will stop. While if the objection to the court, the First Court for Detects whether or not the objection period, the registration shall be subject to an inquiry from the department that it would Was worthy of jurisdiction. Secondly, it may be considered by the court and without notice of registered office Protest the continued registration and issued a court order, all operations were falsified. In order to amend the existing regulations, the following suggestions are offered: 1) arrange that only those who demonstrate sufficient grounds for objecting to the registration, or the rights of easement Are able to apply some or easement rights, protest. In the absence of special circumstances, the Now anyone can have any title to the application, protested the stoppage of operations Be registered. 2) to address objections to the proceedings in the court records, the Supervisory Board as well as the registration authority or reference And other specialized law would predict. Has addressed the issue, the Specifically address and Judgments and the volume of cases in the courts will be reduced. 3) a conflict between Article 16 and Article 86 of the amended registration Registration Act passed in 1380 There are, for registration in accordance with Article 16 of the law, when a protest objecting to the registration office of the submission You shall have no other obligation to submit a petition to the court and a copy of the objection to the registration office The court will, however, pursuant to Article 86 Amendment Regulations, within a month of protests Registration authority to submit objections to petitions submitted to the judicial authority and certificate of registration to the reference Submitted. Otherwise, the Registrant or his legal representative can go to court and Failure to submit the certificate to receive petitions submitted to the Office of Registration and Registration Office or the receipt of the certificate, Regardless of the protest, according to the provisions of the registration process will continue. One of the disadvantages is that Article 16 of the Registration Act objector submitted its objections to the registration office, other Since this method in practice no obligation and cause many problems and sometimes registration office, A copy of the objection to the court, and the court did not, or you can send to a sense of direction, Gone as a result of the continued operation of the Registry was stopped, and the other wave Violation of the rights of the applicant's records, because the amended Article 86 is more appropriate. However, given the Article 16 of the Registration Act, and Article 86 of the amended Act, the Regulations. Act Naturally Priority, but until the regulations by the competent authority (court) cancellation is not available Implementation and operation of the scheme and the amended Article 86 is executed. It is proposed that part of the Article 16 Registration Act, amended in accordance with Article 86, be amended to resolve the conflict..

References

1. Abhari, Hamid; Sower, MR, Code of Civil Procedure (1), claims and qualifications, printing, Mazandaran University Press, 1390
2. Tfkryan, Mahmoud, real estate law, law and preparatory acts and registration of property, second edition, published at the Cultural Institute of Binet, 1386
3. Langroodi Parsley, MJ, -Sbt property rights record, Volume I, Third Edition, library treasure of knowledge, 1387
4. Indeed, Ali, registration of property, Second Edition, published by Treasure of Knowledge, 1387
5. Urban, G., Real Estate Registration, 11th edition, published by University of jihad Tabatabai, Fall 82
6. Salehi, H., documentation Property Rights in Iran, East Cultural Institute, 1375
7. Amid Hasan, Persian Culture Amid, 34 Printing, Publishing Technology, 1386

8. consistory, N., property ownership, issue 23, emission rate, 1387
9. Karimi, A., civil procedure, printing, Antshara of Majd, 1386
10. The regulations set records to September 1386, published by the Library of treasure, my printing
11. Mirzayi, AR, patent applications, publications, B., 1383.
12. Mirzayi, AR, registered in the current legal order, Third Edition, published by Behnam, 1387.

The IISTE is a pioneer in the Open-Access hosting service and academic event management. The aim of the firm is Accelerating Global Knowledge Sharing.

More information about the firm can be found on the homepage:

<http://www.iiste.org>

CALL FOR JOURNAL PAPERS

There are more than 30 peer-reviewed academic journals hosted under the hosting platform.

Prospective authors of journals can find the submission instruction on the following page: <http://www.iiste.org/journals/> All the journals articles are available online to the readers all over the world without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself. Paper version of the journals is also available upon request of readers and authors.

MORE RESOURCES

Book publication information: <http://www.iiste.org/book/>

Academic conference: <http://www.iiste.org/conference/upcoming-conferences-call-for-paper/>

IISTE Knowledge Sharing Partners

EBSCO, Index Copernicus, Ulrich's Periodicals Directory, JournalTOCS, PKP Open Archives Harvester, Bielefeld Academic Search Engine, Elektronische Zeitschriftenbibliothek EZB, Open J-Gate, OCLC WorldCat, Universe Digital Library, NewJour, Google Scholar

