

# Chapter V : Foreign investment & government procurement

## Land Acquisition & Public Tender Law

# Real Estate Ownership Laws

## Real Estate Ownership Laws: Law No. 15 of 1963

- **no foreigners**, whether natural or legal persons, may acquire **agricultural land**.

# Real Estate Ownership Laws: Law No. 143 of 1981

- governs the acquisition and ownership of desert land.
- desert land: is the land lying two kilometers outside the borders of the city
  - Partnerships are permitted to own 10,000 feddans ,
  - **Joint stock** companies are permitted to own **50,000 feddans**.
  - foreign partners or shareholders can be **involved**, provided that at **least 51 per cent of the capital is owned by Egyptians**
  - Upon **liquidation** of the company, however, the land must revert to **Egyptian ownership**.
  - The **President of the Republic** may decide **to treat Arab nationals as Egyptian nationals** for purposes of this law.

# Advise Dina

- Dina established a factory with Sherry to produce jam-filled cakes, purchased in small stores, with American shareholders in Egypt. The factory was an Egyptian joint-stock company with a majority of Egyptian shareholders around 65% and 35% are Americans. The company wanted to buy desert land to build another factory in Cairo-Alex desert road and a fruit farm near to the factory to make a fruit jam for the cake but it was advised that this is not possible in Egypt because foreigners cannot own lands in Egypt.

# Answer

- As per the Egyptian Law , Egyptian joint stock companies with at least 51% Egyptian shareholders can own desert lands up to 50K feddans so this company can buy desert land up to this extent. For the farm( an agricultural land) , the company can buy it as well because the company is Egyptian with an absolute majority of Egyptian shareholders and only Egyptians can buy agricultural lands.

# Land and Real Estate Ownership Laws: Law No. 230 of 1996

- allows **non-Egyptians ( individuals)** to **own real estate** (vacant or built) under the following **conditions**:
  1. Ownership is limited to **two** real estate properties in Egypt : for the **owner and his family** (the one needed for **business is not included**).
  2. The **area of each** real estate property should **not exceed 4,000 m<sup>2</sup>**.
  3. The real estate is **not** considered a **historical site**.
- **Exemption** from first and second condition is subject to the **approval of the Prime Minister**.

# Land and Real Estate Ownership Laws: Law No. 230 of 1996

- **Ownership in tourist areas and new communities** is subject to **conditions** established by the **government**.
- **Non-Egyptians** owning **vacant real estate** in Egypt must **build** **within** a period of **five years from the date** their ownership is **registered** by a **notary public**.
- **Non-Egyptians** may only **sell** their real estate **five years after registration of ownership, unless** the **consent of the Prime Minister** for an exemption is obtained.



# Property Rights & Methods of Transferring Ownership

# Real estate Property Rights

# Real Estate Property Rights :1. Pre-emption right (Priority Rights)

- a **priority right** granted to the owner of a neighboring property **to buy a property before any other third party.**

## Real Property Rights :2. Right of Use

- This is a right to **use a property owned by another person** for a **specific period** of time and **on terms agreed** between the parties.
  - A person **who holds a usage right** over another person's property has **all the rights** granted by law **to the owner**.
- **except** for the right **to transfer the ownership** of such property.

# Real Property Rights : 3.Mortgages

- Property can be mortgaged **to third parties as a security** for a debt.
- For a **mortgage** to be effective and valid it **must be registered with the Notary Public**.
- the **property which is subject to the mortgage must be also be registered** in the name of the borrower **or** the person offering the property as security.

# Methods of Transferring real estate Ownership

# Methods of Transferring real estate Ownership:

## 1. Inheritance

- Ownership of property is transferred to heirs:
  1. after the **death of an owner** and
  2. the issuance of an **inheritance order** from the competent court **determining the heirs and their relevant ownership percentages.**

# Methods of Transferring real estate Ownership:

## 2. Agreement

- **Gift Agreement:** unilateral agreement by which **the owner** gives the real property rights **to another person** without any price in return.
- **Sale Agreement:** the sale of a property in Egypt is not **effective** unless the sale agreement is **registered** at the office of the **Notary Public**.
- The procedures for **registration** needs to **trace the ownership** of a property **to the first owner** through a series of unregistered or registered transfers.



# Public Tender Law

# Public Tender Law: Scope of Application

- **governs all the Governmental procurement** of goods, services and construction.
- all the Governmental procurement Should be **by tenders**
- **except** in case of **emergency** **by Direct contracting** to the limit of :
  - **1 million EGP** to the **competent authority** .
  - **5 millions EGP** to the **competent minister** for procurement of goods, services
  - **10 millions EGP** to the **competent minister** for constructions.

# Types Of Tenders: 1.Public Tender

- must be **advertised in a widely-read daily newspaper** locally or abroad depending on the **nature of the contract** to ensure **equal opportunity and free competition**.
- **offers** should be by **two separate envelopes( offers)** one for **financial issues** , second for **technical issues** which is **opened before the financial** one to choose the adequate offer.
- a government contract must be **awarded** on the basis of **the most qualified and lowest bid**, Egyptian domestic contractors shall be accorded **priority** if their **bids do not exceed the lowest foreign bid by more than 15%**

## Types Of Tenders: 2.Limited Tender

- (i) **the nature** of the contract **requires specific types of suppliers**, contractors, consultants, technicians or other experts;
- (ii) the **items** manufactured are only **available from certain contractors** or production locations; or
- (iii) **National security** dictates **confidentiality**

## Types Of Tenders:3.Local tenders

- may be used where all contracts are **up to a value of EGP 200,000 EGP**
- are confined to **local suppliers** or contractors.

# Public Tender Law: Guarantees

1. **Bid bond** Each tender must be **accompanied by the payment of a bid bond of up to 2% of the financial offer**, which shall be refunded to unsuccessful tenderers.
2. **final deposit** up to **5%** must be **paid by the winning bid within 10 days of their tender being accepted** and will be released after execution of the contract.
  - If the **final deposit is not paid**, the Governmental Entity shall be entitled to **cancel the contract** or use the **next bidder whilst recovering any losses** directly incurred.
  - **late performance or late delivery :**  
A maximum **fine** up to **10%** of the **value of construction** contracts and up to **3% of the value of service** contracts may be imposed on contractors for late performance or late delivery.

# Tenders Termination

Tenders may be rejected upon bids receipt due to:

1. **non compliance** with the **technical** specifications;
2. If only **one bid** was submitted; or
3. If the **lowest tendered price exceeds the estimated value of the contract.**