

Ministry of Housing

Ministerial Decision

Number 50/89

The Minister of Housing

Having considered Sultani Decree number 26/75 promulgating the Law Regulating the Administrative Apparatus of the State and amendment thereto,

And Sultani Decree number 5/80 promulgating the Land Law, and the amendments thereto,

And Sultani Decree number 48/89 promulgating the Regulations for the Vesting of Title to Flats and Storeys,

And in accordance with the requirements of the public interest,

HAS DECIDED

Article 1

The provisions of the attached Implementing Regulations of the Regulations for the Vesting of Title to Flat, Storeys and Premises shall have effect.

Article 2

This Ministerial Decision shall be published in the Official Gazette and it shall come into force from the date of its promulgation,

Promulgated on 22 Shawal 14 OG H

Malik bin Sulaiman bin Saeed Al Mamary

Corresponding to 28 May 1989 AD

Minister of Housing

THE IMPLEMENTING REGULATIONS OF THE REGULATIONS FOR THE VESTING OF TITLE TO FLATS, STOREYS AND PREMISES

Article 1

The provision of these Regulations shall apply to storeys, flats and premises in buildings which are already constructed or which will be licensed to be constructed for the purposes of vesting title in whole or in part. The words and expressions used in these regulations shall have the same meanings attributed to them in the Regulations for the Vesting of Title to Flats and Storeys, promulgated by Sultani Decree number 48/89 aforesaid, unless the context otherwise requires.

CHAPTER I

DIVIDED PARTS AND COMMON PARTS

Article 2

A building may constitute of divided parts being storeys, flats and premises. Each part shall be deemed a real estate unit which has a sole owner. Ownership may be joint with others who own it jointly unless such owners have agreed for each real estate unit to have one sole owner.

Article 3

An owner may within the limits prescribe by the law, have the right to use, exploit and dispose of a real estate unit owned by him. He may use it himself or together with someone else and may exploit it by way of leasing to a third party. He may dispose of it by way of sale, gift, mortgage and other types of dispositions.

Article 4

Owners of real estate units shall be partners in the ownership of the land unless the title deeds contain a provision otherwise. The share of each one of them shall be determined on account of the value of the part he owns in the building.

Article 5

The land on which the building has been constructed and the other parts of the building which are prepared for joint usage among all the owners shall be deemed common parts.

Article 6

The title deeds shall determine the common parts and the divided parts of the building. The contracts shall include an estimation of the value of the divided parts at the time of construction of the building. Such estimation shall be the basis for determination of the share of each owner in the common parts and the basis of what such owner shall bear of the expenses and costs required for the same.

Article 7

The common parts shall be jointly owned by the owners of the storeys, flats and premises and shall be indivisible. The share of each owner in such common parts shall be proportionate to the value of the part he owns in the building. He shall not dispose of such share in isolation of the part which he owns.

Article 8

An owner shall not effect any change in the common parts without the consent of the other owners. He may without the consent of the owners effect changes which may facilitate usage of the common

part without changing its allocation and without inflicting damage to the others provided that such change is made at his own expense.

Article 9

Each owner shall not misuse the real estate unit which is owned by him and the common parts of the building to an extent which inflicts damage to the other owners. Such an owner shall be prohibited from carrying out any work which could undermine the building or weaken its integrity. He shall maintain the flooring of the real estate unit owned by him, its tiles and wood ceiling in order that such floors and ceilings – which are a joint ownership – may not be affected as a result of default and negligence in carrying out maintenance.

Article 10

All owners shall bear the cost of preservation, maintenance, management and repair of the common parts in the building. They shall also bear the cost of consumption of water and electricity, and remuneration of persons entrusted with the service of such parts, together with insurance premium, municipality fees and other expenses necessary for the property. Such an obligation shall not be affected by the owner not having utilised the common parts in whole or in part or by him having his abandoned his share therein. The participation of the owner shall be proportionate to the value of the real estate unit as stated in the title deed unless there is an agreement which provides otherwise.

CHAPTER II

OBLIGATIONS OF THE OWNER OF THE LOWER STOREY

Article 11

The owner of the lower storey shall maintain all the parts owned by him as divided ownership. He shall carry out the works and maintenance necessary for the same. If he refuses to do that, the court may order these to be carried out within a reasonable time determined by it. If such time has elapsed, the court may order the sale of the lower storey. The owner of the upper storey may obtain a permit from the court to carry out necessary maintenance in the lower storey at the cost of its owner.

Article 12

The owner of the lower storey shall not be bound to carry out maintenance works in the lower storey for prevention of its collapse.

Article 13

If the building has collapsed, the owner of the lower storey shall reconstruct it. If he refrains, the court may order it to be sold. The owner of the upper storey may obtain a permit from the court for reconstruction of the lower storey at the cost of its owner for the purpose of avoidance of an inevitable damage to the lower storey. He may prevent the owner of the lower storey from residence and utilisation until he has settled his liabilities. He may obtain a permit from the court for leasing such storey or using it in residence as satisfaction of his rights.

Article 14

If the collapse of the building occurred as a result of a mistake of the owner of the upper storey, the owner of the lower storey may recourse against him for reasonable damages. He shall not be bound to reconstruct the lower storey, however, if he has reconstructed the same, the owner of the upper storey shall have the right to surmount after payment of damages.

Article 15

If the collapse of the building has not occurred as a result of a mistake of the owner of the upper storey whether such a collapse was a result of the mistake of the owner of the lower storey or otherwise, the owner of the lower storey shall reconstruct the building. If the collapse has occurred as a result of a mistake of the owner of the lower storey, he shall compensate the owner of the upper storey for the damage which the owner of the upper storey would sustain as a result of the collapse of his upper storey and reconstruction of the same.

CHAPTER III

OBLIGATIONS OF THE OWNER OF THE UPPER STOREY

Article 16

The owner of the upper storey may not increase the height of the structure belonging to him or demolish or misuse it or carry out any work which increases the building of the upper storey in a manner prejudicial to the lower storey. The owner of such storey may obtain a permission from the court to prevent him from doing that.

Article 17

The owner of the upper storey shall carry out necessary maintenance works for the flooring tiles etc. of his upper storey in order that the roof of the lower storey may not be affected as a result of default in carrying out maintenance work. The owner of such storey may obtain a permit from the court for carrying out such maintenance work at the expense of the owner of the upper storey.

CHAPTER IV

MANAGEMENT OF THE PROPERTY AND OWNERS ASSOCIATION

Article 18

An association shall be formed of the owners of the property which is divided into storeys, flats and premises for such association to manage the common parts therein. The association may be formed for the purpose of purchasing of properties which may be built in order to distribute ownership of its parts among the members.

Article 19

The association of the owners shall have a juristic personality which is independent from the personality of its members. Also, it shall have an independent financial personality.

Article 20

The resources of the association shall compose of:

- (a) Contributions of the members.
- (b) Amounts determined to be collected from the members to cover the obligations of the association.
- (c) Loans.
- (d) Donations and gifts.

Article 21

Upon approval of the majority of the members, the association may step out regulations to ensure the best utilisation of the common property and its orderly management. Such regulations shall apply to all owners, their heirs afterwards and to those in whose favour a storey, flat or premises have been disposed of. Those shall replace the owner in the membership of the association. The regulations of

the association may not be amended save upon the approval of the majority on the basis of the value of the share of each owner in the property.

Article 22

If there are no management regulations, or if such regulations do not cover certain matters, management of the common parts shall be conducted through individual resolutions issued by the majority of the owners calculated on the basis of the value of their shares. These resolutions shall be binding on all owners even if they did not consent to them.

Article 23

The association may carry out new works or effect changes in the whole building or part of it with respect to the common parts in a manner which will increase the value of the building provided that all the owners have agreed. The new building shall be considered a common ownership among the owners in proportion to their respective shares.

Article 24

The association may grant loans to the members for the purpose of satisfying their obligations provided that the loan is secured by mortgaging the divided parts which is owned by the member together with his share in the common parts of the property. This mortgage shall have effect from the date of its registration.

Article 25

The association shall appoint for itself a manager who represents it with third parties and before courts including litigations against the owners when necessary. If the members have not agreed on the selection of the manager, the manager shall be appointed by virtue of a decision from the Minister of Housing. The association or the Minister of Housing as the case may be, may determine a remuneration for the manager. Such remuneration shall be a deemed part of the expenses of the property and all owners shall be bound to pay it in proportion to their respective shares.

Article 26

The manager of the association shall have the following competencies:

- (a) To implement the resolutions of the association. He shall be responsible for such implementation.
- (b) To require each owner to perform his obligations whether such obligations are based on the law, the regulations or the associations of the individual resolutions issued by it. He shall follow up on the same.
- (c) To recover of the contributions and the financial obligations of the members.
- (d) To take necessary measures for preservation, safeguarding and maintenance of the common parts. He may when necessary perform such tasks on his responsibility without a resolution from the association provided that he shall refer the matter to the association in its first following meeting.
- (e) To submit periodical reports in respect of the affairs of the association, its accounts and financial situation.

CHAPTER V

REGISTRATION OF THE REAL ESTATE UNIT

Article 27

Each owner shall register the ownership of the storey, flat or premises allocated for him in the building. Each unit shall have a real estate register in which such unit is registered in accordance with the applicable provisions. The register shall contain the following information and documents:

- (a) A krukki which identifies the site and the total area of the property.
- (b) A special krukki for each real estate unit and the area of each unit separately.
- (c) A statement about the area actually built on the ground, the area of the common parts and the services provided to the building.
- (d) The conditions stipulated for construction of the building as specified by the competent municipality and the number of storeys, flats and premises in the building.
- (e) Ownership documents and any other documents that may be required from the owner.

CHAPTER VI

FINAL PROVISIONS

Article 28

The Ministry of Housing and its administrative units shall monitor the owners associations to verify their creation and convocation, to supervise their affairs, to examine complaints and grievances submitted by the parties concerned and decide on the same.