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Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 - info@iledu.in / Chairman@iledu.in



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IMPACT OF DIGITALIZATION ON PROPERTY TRANSACTIONS AND REGISTRATION UNDER THE TRANSFER OF PROPERTY ACT, 1882

AUTHORS – K. ROHIT* & DR. P BRINDA**, LL.M SCHOLAR* & HOD, DEPARTMENT OF PROPERTY LAW, SCHOOL OF EXCELLENCE IN LAW, THE TAMIL NADU DR. AMBEDKAR LAW UNIVERSITY

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ABSTRACT

The digitization of property transactions and registration has been one of the most significant legal and administrative reforms in India in recent years. The Transfer of Property Act, (TPA), which governs the transfer of immovable property in India, has been greatly influenced by digitalization. This research paper explores the impact of digital technologies on property transactions and registration under the TPA, focusing on e-registration, digital signatures, online land records, and blockchain technology have transformed the legal landscape. This study also examines the challenges and potential risks of digitalization and also about the digitization of land records and registration processes through initiatives like the Digital India Land Records Modernization Programme (DILRMP) has minimized fraudulent practices, such as forgery and disputes over ownership.

Keywords: Digitalization, Property Transactions, Registration, Transfer of Property Act, Blockchain, E-registration, Land Records.

1. INTRODUCTION

Property transactions are an essential part of the economic and legal system in India. The Transfer of Property Act, 1882 serves as the cornerstone of property law in India, outlining the legal framework for the transfer of immovable property. Historically, property transactions involved significant paperwork, manual processes, and face-to-face interactions, making them prone to delays, fraud, and errors. However, with the advent of digital technology, these traditional methods are gradually being replaced by digital platforms, offering increased efficiency, transparency, and security.

Digitalization has radically altered the way property transactions are carried out, particularly in the areas of registration, record-keeping, and title verification. This research paper examines how digitalization has impacted property transactions under the TPA,

identifies the key benefits and challenges, and suggests potential future directions.

The digitization of property transactions has been largely driven by initiatives such as the **Digital India Land Records Modernization Programme (DILRMP)**, aimed at creating a unified, transparent, and accessible land record system. This shift from manual, paper-based processes to online platforms has addressed long-standing issues of inefficiency, fraud, and disputes in property dealings. Features like online registration portals, e-signatures, blockchain technology, and geospatial mapping have significantly improved the transparency, accuracy, and efficiency of property transactions.

Despite these advancements, challenges such as limited digital literacy, cybersecurity concerns, and inadequate infrastructure in rural areas persist, requiring policy interventions and technological innovation.

2. EVOLUTION OF DIGITIZATION IN PROPERTY TRANSFER: –

Digitalization in the realm of property transactions began with the digitization of land records and online registration systems. Prior to digitalization, the process of property transfer was often cumbersome, requiring multiple physical visits to government offices, manual documentation, and registration procedures. Over the last two decades, various e-governance initiatives have been launched to simplify and streamline these processes.

In India, the National Land Records Modernization Programme⁶⁵ (NLRMP), now known as the Digital India Land Records Modernization Programme (DILRMP), was introduced to digitize land records across states. Similarly, the e-District Project and the introduction of e-Registration platforms have significantly impacted how property transactions and registration are carried out under the Transfer of Property Act, 1882.

2.1. Key Milestones in Digitalization:

National Land Records Modernization Programme (NLRMP): Digitization of land records and integration with the revenue system.

e-Registration Platforms: Platforms like Maharashtra Registration and Stamps Department and Tamil Nadu Registration and Stamps have made property registration entirely digital.

Introduction of e-KYC and Digital Signatures: Electronic Know Your Customer (e-KYC) systems and the use of digital signatures have reduced manual paperwork and increased the security of transactions.

2.2. National Land Record Modernization Programme (NLRMP)⁶⁶

The National Land Record Modernization Programme (NLRMP) was a central scheme that has been launched by the Government of India

in 2008 with the aim to modernize the land records system in the country and implement the conclusive land-titling system with title guarantee. The NLRMP was later known as the Digital India Land Record Modernization Programme (DILRMP) in 2016 as a central scheme with 100% funding by the central government.

2.3. Some Beneficials about the DILRMP (Digitization of Land Records):

2.3.1. Improve the Quality and Accessibility of Land Records:

- The DILRMP aims to digitize and update the textual and spatial records of land ownership and transactions, like sale deeds, inheritance records, mortgage and lease documents, cadastral maps, etc.
- These records are made available online to the public and are updated regularly. This helps to reduce errors, inconsistencies and gaps in land data and make them more reliable and transparent.

2.3.2. Reduce Litigation and Frauds:

- The DILRMP aims to implement the conclusive land-titling system with title guarantee, which means that the land records provide a conclusive proof of ownership of land and are backed by the government.
- The title holder is protected from any challenge or dispute by other claimants and is indemnified by the government in case of any loss arising from any defect in the title.
- This helps to reduce the scope and frequency of land-related disputes and frauds, which account for a large proportion of pending court cases in India.

2.3.3. Ensure Equity and Empowerment:

- The DILRMP aims to support the implementation of land reforms that aim

⁶⁵ Department of Land Resources under Ministry of Rural Development

⁶⁶ www.drishitias.com Digitisation of Land Records

to redistribute land among the landless and marginalized sections of society.

- It also empowers women and other vulnerable groups by recognizing their land rights and enhancing their access to land-related services.
- This helps to improve their livelihoods, dignity, and social status.

ANALYSIS OF THE IMPACT OF DIGITIZATION ON PROPERTY TRANSFER IN INDIA⁶⁷

Significant adjustments and improvements have been made as a result of digitization's effects on India's laws governing the transfer of property.

1) Efficiency and speed have increased as a result of digitization, which has also reduced the amount of paperwork and human effort involved in property transfers. Online submission, verification, and processing of property documents allows for quicker and more effective transactions. Both buyers and sellers have benefited from the dramatic reduction in the amount of time needed for property transactions.

2) Improved openness: By making property records, titles, and ownership information which is available online, digitization has increased openness in real estate transactions. This likelihood of fraud and disagreements over property transfers has decreased as a result. The ownership and legal standing of a property can now be confirmed by buyers.

3) Easily Accessible and Convenience: The public now has easy access to information on real estate thanks to online platforms and portals. Online access to land maps, property records, and other pertinent data eliminates the need for people to physically visit government offices. For those participating in real estate transactions, this has improved convenience and usability.

4) Digitization has resulted in the standardisation of processes and

documentation pertaining to property. Online tools make guarantee that real estate paperwork adhere to a⁶⁸ standard format, minimising mistakes and anomalies. Due to the increased uniformity in property transactions across India, it is now simpler for buyers and sellers to transfer the property with the help of digitization.

5) Enhanced Security and Data Integrity: Digital systems offer secure document storage and retrieval. The validity and integrity of property records are guaranteed by the use of digital signatures and encryption methods. This lowers the possibility of document loss or alteration, improving the general security of real estate transactions.

6) Reduced Bribery and Corruption: The digitization of property transfer procedures has also helped to lower bribery and corruption. Online platforms reduce potential for unethical behaviour because there is less direct interaction between citizens and government representatives.

3. DIGITALIZATION AND PROPERTY TRANSFER UNDER THE TRANSFER OF PROPERTY ACT, 1882 AND REGISTRATION ACT, 1908: -

The Transfer of Property Act, 1882 lays down the rules for the sale, mortgage, lease, and exchange of immovable property. Digitalization has affected nearly every stage of property transactions governed by the TPA, including:

3.1. Property Registration

Under Section 17 of the Registration Act, 1908⁶⁹, the registration of certain types of property transactions (such as sale deeds, mortgages, and leases) is mandatory. Before digitalization, the registration process was manual and involved physical visits to the sub-registrar's office. This process was time-consuming and prone to inefficiencies.

E-Registration: The introduction of e-registration platforms has simplified the process of

⁶⁷ Indian Journal of Law and Legal Research, impact of digitalization in property transactions

⁶⁸ P. Ravindra Pai, Digitization of Land Records, India Times
⁶⁹ www.indiacode.nic.in (Registration act 1908)

registering property transactions. Buyers and sellers can now complete the registration process online, including submitting documents, paying stamp duty, and obtaining the registration receipt. Digital platforms have made it easier for individuals to book appointments, reducing the physical presence required at government offices.

Impact: The efficiency and speed of property registration have significantly improved, and it has become easier to track the status of registration. Furthermore, e-registration reduces the scope for errors and potential fraud that could arise from manual processes.

3.2. Digital Signatures and Authentication

One of the major advancements facilitated by digitalization is the use of digital signatures to authenticate documents. Section 3 of the Information Technology Act, 2000⁷⁰ recognizes digital signatures as legally valid. In property transactions, digital signatures are used to sign documents such as sale deeds, leases, and agreements, ensuring their authenticity and legal validity.

Impact: The use of digital signatures has enhanced security by ensuring that documents cannot be altered once signed. This also reduces the risk of document forgery, which was a significant issue in manual transactions.

3.3. Online Property Title Search and Verification

A critical aspect of property transactions under the TPA is the verification of the property's title and ownership. Traditional methods involved physical visits to the registrar's office to inspect land records, which was both time-consuming and cumbersome.

Online Title Search: With the digitization of land records, individuals can now verify the title and ownership of property online. Online portals provide access to land title records, encumbrance certificates, and ownership

history, enabling buyers to confirm the legitimacy of a property before purchasing it.

Impact: This has made property transactions more transparent and has reduced the chances of title disputes and fraudulent property transfers.

3.4. Land Records Digitization

As part of the government's broader digital initiative, land records in many states have been digitized, making it easier for people to access property-related information. This includes details of ownership, mutations, encumbrances, and pending litigation, all of which are now available online.

Impact: Digitized land records have enhanced the accuracy of property records and ensured better tracking of land ownership over time. Public access to these records ensures greater transparency and accountability in property transactions.

4. BENEFITS OF DIGITALIZATION ON PROPERTY

TRANSFER: -

4.1. Increased Transparency

Digital platforms provide easy access to property records, including sale deeds, mortgages, and encumbrances. This access reduces the likelihood of fraud and ensures that both parties in a transaction are fully aware of the property's legal standing. The availability of online land records and title verification tools helps prevent fraudulent transfers and title disputes.

4.2. Efficiency and Speed

Digitalization has streamlined the property registration process, reducing delays caused by manual processing. E-registration systems allow users to submit documents, pay stamp duties, and complete other formalities online. This has reduced waiting times and the need for multiple physical visits to the registrar's office, making property transactions faster and more efficient.

⁷⁰ www.indiacode.nic.in (IT act 2000)

4.3. Security and Reduced Fraud

The use of digital signatures, e-KYC, and blockchain technology has significantly improved the security of property transactions. Digital signatures ensure that the documents cannot be tampered with, and blockchain can further secure transaction data by creating an immutable record of property transfers.

4.4. Cost-Effectiveness

Digitalization has reduced the costs associated with manual paperwork, administrative overheads, and physical visits to government offices. Both buyers and sellers save time and money through digital processes, while government authorities can streamline operations, reduce errors, and increase revenue collection efficiency.

Legal aspects in which we can prevent from fraud through property transfer⁷¹

Digital property transactions could potentially increase the risk of fraud due to the anonymity and speed of digital transactions. The TOPA 1882 may not have adequate provisions for preventing and addressing such fraud. For example, the Act might not provide sufficient measures to verify the identity of parties in a digital transaction or to trace fraudulent transactions.

a) Verifying Identity: Digital transactions often involve parties who may never meet in person, making identity verification crucial. Various tools allow for digital identity verification, including biometric or face recognition and digital identification documents. The Reserve Bank of India (RBI) has provided guidelines for regulated entities to set up robust governance structures and implement common minimum standards of security controls for digital payments products and services.

b) Tracing Fraudulent Transactions: Tracing fraudulent transactions in the digital space can be complex due to the speed and volume of transactions. Techniques such as machine

learning and data analytics are used to identify patterns of fraudulent and legitimate transactions. These techniques can help detect anomalies and suspicious activities in real-time, thereby enabling prompt action to prevent fraud.

c) Preventing Fraud: Preventing fraud in digital transactions involves implementing robust data-security measures, monitoring transactions for unusual behaviour, using multi-factor authentication, and conducting customer identity verification. The RBI also recommends securing cards and setting daily limits for transactions.

d) Legal Provisions: While the Transfer of Property Act (TOPA) 1882 may not have specific provisions for preventing fraud in digital transactions, other laws and regulations in India address this issue. For instance, the Information Technology Act, 2000, provides legal recognition for electronic contracts and digital signatures, which are crucial for verifying the identity of parties in a digital transaction

Dispute Resolution: Disputes arising from digital property transactions could present unique challenges. Traditional dispute resolution mechanisms may not be equipped to handle these challenges. The Reserve Bank of India (RBI) introduced an Online Dispute Resolution (ODR) system for resolving customer disputes and grievances pertaining to digital payments, using a system-driven and rule-based mechanism with zero or minimal manual intervention. This system is transparent, rule-based, system-driven, user-friendly, and unbiased.

Transferability⁷² (Section 9 of TOPA 1882): Section 9 of the Transfer of Property Act (TOPA) 1882 states that the transfer of property must not oppose the interests of the parties. However, in digital transactions, it could be challenging to ensure that this provision is upheld. The section essentially mandates that a transfer of property may be made without writing in every case in

⁷¹<https://srrn.com> last visited on 10.12.2024

⁷² [oral-transfer-of-property/ipleaders.com](https://www.ipleaders.com/oral-transfer-of-property/)

which writing in not expressly mentioned/required by law.

Fraudulent Transfer⁷³ (Section 53 of TOPA 1882): Section 53 of the Transfer of Property Act (TOPA) 1882 deals with fraudulent transfer and applies to transfers done to defraud creditors. In the context of digital transactions, identifying and proving fraudulent transfers could be challenging. The section prohibits transactions that remove property from the debtors for the benefit of the debtor. The debtor's intention must be to benefit himself and to defeat or delay the creditors.

Sale of Immovable Property⁷⁴ (Section 54 of TOPA 1882): Section 54 of the Transfer of Property Act (TOPA) 1882 deals with the sale of immovable property. The digitalization of property transactions could raise questions about how this provision applies to digital sales. The section defines "Sale" as a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised. Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

5. CHALLENGES OF DIGITALIZATION IN PROPERTY TRANSFERS

Despite its numerous benefits, digitalization of property transactions also poses several challenges:

5.1. Digital Divide

Not all regions in India have access to high-speed internet or digital infrastructure, particularly in rural areas. This digital divide can prevent certain segments of the population from fully participating in digital property transactions.

5.2. Cybersecurity Risks

The increasing reliance on digital systems raises concerns about the security of sensitive

personal and financial data. Cyberattacks, data breaches, and identity theft are potential risks that could undermine the security of property transactions.

5.3. Resistance to Change

Certain segments of society, including property agents, traditional registrars, and even buyers and sellers, may be resistant to the adoption of digital systems. This resistance could slow down the widespread adoption of digital property transaction platforms.

5.4. Legal Challenges

The legal framework around digital signatures, e-registration, and online land records is still evolving. There are concerns about the recognition of electronic documents in court disputes and the potential for inconsistencies in the implementation of digital systems across states.

The legal challenges in digital property transactions can have significant impacts on various stakeholders, including property buyers, sellers, real estate agencies, and government bodies. Here are some potential impacts:

1. Property Buyers: Buyers may face challenges in verifying the authenticity of digital property transactions. They may also be at risk of fraud due to the anonymity and speed of digital transactions. In the case of **Trimex International FZE Ltd. Dubai Vs Vedanta Aluminium Ltd.**,⁷⁵ the Supreme Court of India recognized that email conversations between parties discussing mutual duties form a contract.

2. Property Sellers: Sellers may face challenges in establishing ownership and possession in digital transactions. The traditional concept of possession and ownership might not be fully applicable in the context of digital assets.

3. Real Estate Agencies: Real estate agencies may need to invest in new technologies and training to adapt to digital property transactions. They may also need to update

⁷³ <https://lawlegum.com/section-53-of-tpa-fraudulent-transfer>

⁷⁴ <https://www.advocatekhoj.com/library/lawreports/transerofpropertyact>

⁷⁵ 2010 (1) Scale 574 (Indian Kanon)

their legal knowledge and practices to navigate the complexities of digital property laws.

4. Government Bodies: Government bodies may need to update legal frameworks and regulations to accommodate digital property transactions. They may also need to develop new mechanisms for dispute resolution, fraud prevention, and enforcement of digital property laws. In the case of **M/S. Dhodha House Vs. S.K. Maingi**⁷⁶, the Supreme Court held that the transfer of a trademark via email was valid, which shows the court's willingness to recognize digital transactions.

6. THE FUTURE OF DIGITALIZATION IN PROPERTY TRANSACTIONS

The future of property transactions under the Transfer of Property Act, 1882 looks promising, with several emerging technologies that could further transform the system:

Blockchain: Blockchain technology promises to revolutionize property transactions by offering a decentralized, immutable ledger of property transfers. This could help reduce fraud, simplify title searches, and ensure that all parties have access to transparent and verified data.⁷⁷ Blockchain-based smart contracts can automate several elements of property transactions, including title verification, payment processing, and document authentication

Artificial Intelligence (AI) and Machine Learning (ML): AI can be used to automate and streamline the process of title verification, fraud detection, and dispute resolution, reducing human error and improving accuracy. ML algorithms can analyse massive volumes of data to detect patterns and trends, allowing for better property transfer decision-making. Furthermore, AI chatbots and virtual assistants can enhance user experiences by giving real-

time assistance and guidance during the transaction process.⁷⁸

Smart Contracts: Smart contracts, facilitated by blockchain, could automate property transfers once certain conditions are met, making transactions faster and reducing the need for intermediaries.

Worldwide interconnection: Digitization allows for worldwide interconnection in real estate transactions. Interoperable digital platforms can facilitate cross-border property transfers, allowing buyers and sellers from various nations to conduct seamless transactions. To assure legal validity and security in cross-border transactions, standardised international protocols and standards might be implemented

7. CONCLUSION: -

Digitalization has had a profound impact on property transactions and registration under the Transfer of Property Act, 1882. The transition from manual to digital systems has improved efficiency, transparency, and security in property transactions. E-registration, digital signatures, online title verification, and the digitization of land records have reduced fraud, increased the speed of transactions, and made property records more accessible to the public. However, challenges such as the digital divide, cybersecurity risks, and resistance to change must be addressed to ensure that the benefits of digital transaction.

The impact of digitisation on the transfer of property legislation in India has been significant. Legislators have proposed changes to recognise the legitimacy of electronic papers and signatures in real estate transactions. Initiatives such as the National Land Records Modernization Programme (NLRMP) have concentrated on the development of digital platforms for quicker property transactions and dependable land records administration. In India's real estate business, these developments

⁷⁶ AIR 2006 Supreme court 730 (Indian kanoon)

⁷⁷ P Singh, Role of Blockchain Technology in Digitization of Land Records in Indian Scenario

⁷⁸ Yaroslav Kufilinski, 6 Ways AI Is Reshaping the Commercial Real Estate Industry



have increased efficiency, decreased fraud, and increased transparency

The advent of digital tools and platforms has streamlined complex legal procedures, reducing the reliance on manual processes and mitigating the risks of fraudulent activities. Online property registration systems, electronic records, and digital signatures have empowered individuals to complete transactions remotely, promoting accessibility and inclusivity.

One of the most significant impacts of digitalization is the increased transparency in property dealings. By integrating blockchain technology and centralized data systems, governments have minimized instances of document forgery and land disputes. Furthermore, real-time updates and verification tools enable stakeholders to access accurate and reliable information, fostering trust among buyers, sellers, and authorities.

Despite these advancements, challenges persist, such as digital literacy barriers, cybersecurity threats, and the initial costs of implementing robust digital infrastructures. Addressing these issues requires a coordinated effort by policymakers, legal professionals, and technology experts to establish secure and user-friendly platforms while safeguarding data integrity and privacy.

In conclusion, digitalization has modernized the functioning of the Transfer of Property Act, 1882, aligning it with the demands of a rapidly evolving real estate market. By embracing technological innovations and addressing existing challenges, stakeholders can ensure the seamless and equitable administration of property transactions, ultimately contributing to a more transparent and efficient legal framework.

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