

The State's Right to Preemption in The Algerian Legislation

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Abstract:

The State derives the right to preemption from several laws, in addition to the the national properties law n°: 90-30, as amended and supplemented, including the real estate orientation law n°: 90-25, as amended and supplemented, the law n°:10-03 fixing the conditions and the exploitation modalities of the agricultural lands belonging to the the private domain of the State. And the registration law. The Algerian legislater regulated preemption in the Civil Code, and enumerated the persons who have the right to take preemption. However, the Civil Code did not contain a provision that grants the state the right to preempt. The following issue arise how the State exercises the right to preempt?

Keywords: preemption; State; right; the beneficiary; lands.

INTRODUCTION

The Algerian legislater regulated preemption in the Civil Code, and enumerated the persons who have the right to take preemption. However, the Civil Code did not contain a provision that grants the state the right to preempt. In return, we find that the preemption is the exceptional way in which the State acquires private real estate, This is in accordance with the article 26 of the national properties law n°: 90-30 as amended and supplemented, moreover the law mentoned did follow the article by organizational laws.

So, In the absence of special regulatory texts for the state's right to preemption, the general provisions of the Civil Code shall be relied upon,

Therefore, the following issue arise: how the State exercises the right to preempt? And the following sub-questions arise from the main issue:

- What is the concept of administrative preemption?
- what are the private dispositions for the state's right to preemption?

In order to answer the above issue, both descriptive and analytical approaches were relied upon. Accordingly, the research was divided into two chapters. Chapter one dealt with the concept of administrative preemption, while chapter two dealt with the special provisions of the State's right to exercise preemption. At last, we end with a conclusion with a set of results and suggestions.

FIRST TOPIC: CONCEPT OF ADMINISTRATIVE PREEMPTION

The concept of administrative preemption involves under several axes, in terms of definition, characteristics, formation and development.

We shall therefore deal with the definition of the administration preemption at first, as well as distinguishing between the administrative preemption from civil preemption, formation and development of administrative preemption, as follows:

First Requirement: Definition Of Administrative Preemption

The preemption, in civil code, is a license allow for replacing the buyer in the sale of the real estate to certain conditions¹. And so administrative preemption is a license allow for the state and the local communities for replacing the buyer in the sale of the real estate, according to special conditions and cases.

The administrative preemption is also known as the instrument that allows a physical or moral person to replace another person in the sale of the real estate, depending on the type of replacing, and the type of preemption.

It was also defined as " a legitimate right grants certain private persons (tenant, farmer) or public (state, local communities) priority at the expense of any other person to acquire a real estate property, when the owner freely sells his property².

¹-The article 794 of the ordonnance n° :75-58, dated in 26 september 1970, containing the civil code, as amended and supplemented.

²- Article de wikipédia, l'encyclopédie libre.

It is also defined, in France, as a mechanism that allows the public authority to acquire a real estate property to replace the buyer, on the occasion of the disposition of the said property, for the purpose of its use in the development of its reconstruction policy¹.

Second Requirement: Distinguishing Between The Administrative Preemption From Civil Preemption

Since, in general, the preemption is to replace the buyer on the occasion of the real estate sale, regardless of the nature of the sale, granted to both private and public persons, however the taking of the preemption by individuals differs from a public person's right to take it. This leads us to examine the differences between the preemption in the Civil Code and the licence provided for in the Administrative Code, where the difference between them is highlighted in several aspects, including:

1-The Beneficiary Of The Preemption:

The beneficiary of the administrative preemption are persons of common law, such as the State and local communities, while the beneficiary of the civil preemption are persons of private law, who are mentioned exclusively in the Algerian Civil Code. Respectively:

- Bare owner, if all or part of the right usufruct suitable adequate for bare ownership is sold,
- The partner in joint property, in case of selling part of the coownership to others,
- Beneficiary of the right usufruct, if all or part of bare ownership is sold².

2- Justification Of Taking The Preemption

Preemption in the Civil Code is a choice granted to persons who have the right to it, they have to take it or leave it, and so they are not obliged in any case to justify their position in case they want to.

This is Contrary to administrative preemption, if a public person decides to take the preemption, he is obliged to justify and explain his decision which must be for the public utility³.

¹- P.soler, Couteau, (1996)droit de l'urbanisme, DALLOZ, France, 1996, p24.

² -The article 795 of the civil code.

³- Dix question sur le droit de preemption, (www.benoit.

3- The purpose Of The Preemption

The purpose of the administrative preemption is different from that of the Civil Code, the latter, as mentioned above, is to pay damage to the partner or neighbor on the occasion of a foreign entry as well as the stay of the property within the family. The aim is therefore to protect individuals' own interest.

However, it is the public interest that prompts the Administration to use the right to adopt the preemption, thereby enabling it to prejudge real estate transactions, in order to avoid any unreasonable price increases, thereby playing a threatening and preventive role¹.

With regard to the purpose of the administrative preemption, a distinction must be drawn between the agricultural and urban properties.

- For Agricultural Property:

The purpose of the preemption for the agricultural property appears in:

- Give the peasants the opportunity to acquire agricultural land, especially young peasants, from whom they have been expropriated,
- Supporting the exploitation of the land and the development of the agriculture investee,
- Give the tenant investor the right to take the preemption if the land he exploits is sold,
- Protecting the agriculture investee from the risk of expansion of basic infrastructures,
- Combating illegal speculation in farmland, as well as preserving sensitive areas, forests and natural civilizations
- Combating illegal speculation on agriculture land, as well as preserving sensitive areas, forests and natural barns².

-for urban Property:

The right of preemption in urban property has been set up for the benefit of the State and local communities in order to achieve their needs with regard to urban land, in order to establish public, economic, cultural and social foundations³.

Third Requirement: Formation And Development Of Administrative Preemption

Granting a public person, such as the State and local communities, the right to preemption has come with an exception only, and for a particular situation. Originally, the right to take the preemption was used from the very age by individuals or persons of the Civil Code. And the public person was given the right to take it only recently. This is in the second half of the twentieth century, where its use appeared in common law because of the evolution of each nation's preparations and reconstruction processes, after the exit from the Second World War, and the need to rebuild the devastating base structures, infrastructure and others⁴.

² - احمد خالدي، (2006)، الشفعة بين الشريعة الإسلامية والقانون المدني، على ضوء اجتهاد المحكمة العليا ومجلس الدولة، الطبعة الأولى، دار هومة،

الجزائر، 2006، ص 104.

² - Article de wikipédia, l'encyclopédie libre.

³ - Souad Guerouda, la gestion du foncier urbain dans le cadre de la liberation, ecole national d'administration, 1995, p12.

⁴ - Bouhnik Davy, les vises susceptible d'affecter la decision de preemption, université de Droit et des sciences d'Aix-Marseille, 1998, p7.

This does not mean that the right to take the preemption, for the public person, was totally non-existent before, perhaps not in the newly known face, as it had old roots, especially in Islamic legislation¹.

With regard to the right of the State to take preemption into Algerian law, the first time has been in relation to the State's agriculture lands. This is just after the years following independence. The law n° : 87-19, is the first law to recognize the right of the State to preemption, for agricultural lands².

It was followed by the law on the real estate orientation law n°:90-25, which gave a new concept of private real estate ownership, as well as a new approach to the legal regulation of the agricultural property, emphasizing the right of the State and local communities to take a preemption, in order to provide for the needs for public utility³.

The State's right to take preemption then evolved to include urban lands, after being confined only to the State's agricultural lands.

This was a summary of the concept of administrative preemption, its origin and evolution. which well demonstrates that this right has changed poisonously, becoming a true technique for the real estate process and an effective and necessary means of agricultural and urban policy of any country.

SECOND TOPIC: THE PRIVATE DISPOSITION FOR THE STATE'S RIGHT TO PREEMPTION

The State's right to preemption derives from several laws, it is therefore subject to several conditions. We shall therefore deal with the legal basis for the State's right to take preemption at first, as well as the conditions for the exercise of this right, then the persons exercising the administrative preemption and finally the procedures, as follows:

First Requirement: The Legal Basis For The State's Right To Preemption

1. The National Properties Law n°:90-30 :

As stipulated in article 26 of the National Properties law n°: 90-30, the preemption is one of the exceptional means by which the State can acquire real estate, consequently, the State and local communities are entitled to use the preemption's licence, by replacing the buyer in the sale of the real estate, under certain conditions, which we will study later⁴.

2. The Registration Law :

The Algerian legislature stipulates in the registration law, previously mentioned, that the State has the right to use the preemption on real estate or real estate rights, the right to rent, the goodwill, or the promise to the real estate, whether it's all or part of it, If the State considers the sale price insufficient

¹- احمد خالدي، مرجع سابق ص 40 وما بعدها.

²-Article 24 of the law N°:87-19, dated in 08 December 1987, containig adjusting the way how to exploit the agrical lands belongin to private national properties, and defining producers' rights and duties. Law repealed by the law n°:10-03, containig Conditions of how to exploit the State's private agrical lands, dated in 15 August 2010.

³ - Article 71 of the law n°:90-25, dated in 18 November1990, containig the real estate orientation law, as amended and supplemented

⁴ - See article 26 of law N°: 90-30, dated in 01December1990, containing the national properties law as amended and supplemented.

or the declared sum is inappropriate¹.

3. The Law n°:19-87(repealed law):

The State has the right to take the preemption as a bare owner. This is after it gave the right usufruct on its agricultural lands or agricultural oriented lands, to the agricultural peasants².

According to articles 23 and 8 of the law previously mentioned, the real estate rights and members' shares in agricultural investee, are transferable and waivable. Thus, as the owner of the bare owner, the State has the right to exercise the preemption for these waivable rights. It also retains the ownership of valuable and archaeological objects that can be detected in the underground. As expressly stipulated in article 24 of the same law, which stipulates that: « The share can only be waived for the benefit of the agricultural sector, and priority is given in this context to young people who have benefited from agricultural formation, and workers within the collective agricultural investee.

In all cases, the State may exercise the right of imprisonment. »

It should be noted that the State exercises its right to preemption in accordance with the order provided for in the Civil Code³.

4. The Law n° :10-03, Contaning Conditions Of How To Exploit The State's Private Agricultural lands :

The article 15 of the law n° : 10-03 above, stipulates that : « in case of waiver of the concession right, Other investors, who have the same coession on the agricultural investee, or when appropriate the national office of agrical lands, may exercise the right of preemption in accordance with the applicable legislation ».

We also find that the second paragraph of the article 17 of the executive decree n °: 10-326, defines the modalities of application of the right of concession to exploit the agricultural lands belonging to the State private properties, stipulates : « ...the national office of agricultural lands can exercise the right of preemption in accordance with the applicable legislation »⁴.

From here it turns out that the practice of the preemption is in order of the investor members first, then the national office comes second. However, the problem in all cases is that the preemption is not obligatory in Algerian legislation. This makes the public institutions concerned usually turn a blind eye to the practice of the preemption and it allows the waiver to complete the waiver procedure⁵.

5. The Real Estate Orientation Law n°: 90-25 :

By reference to the provisions of the the real estate orientation law on the right of the State to adopt preemption, we find them divided into provisions on preemption practised on the agricultural lands, on the one hand, and provisions on radiation practised on the urban and reconstructive lands, on the other.

- The Preemption Exercised OnThe Agricultural Lands

¹- See article 18 of law n°: 76-105, dated in 20 December1976, about the registration, as amended and supplemented.

²- See article 06 and 7 of the law n°:87-19.

³-See article 18 of the registration law.

⁴- The executive decree n °: 10-326, dated in 23 December2010, defines the modalities of application of the right of concession to exploit the agricultural lands belonging to the State private properties.

⁵-دريدر ملكي، لعشاش محمد، حدود ممارسة الشفعة في إطار القانون رقم: 10-03، (2022)، مجلة الاستاذ الباحث للدراسات القانونية والسياسية - المجلد 07 - العدد 01، ص 925.

The State exercises the preemption on the uninvested agricultural land, If this land is sold, considering that the lack of investment constitutes an arbitrary act in the use of the right, given the economic importance and the social function assigned to these lands¹.

In exercising preemption, the State is subject to the same arrangement as article 795 of the Civil Code².

-The Preemption Exercised On The Urban Lands

The right of the State and of local communities to the preemption is established in order to provide for needs of public interest and public utility, regardless of the possible resort to expropriation. And that's if it comes to general and reconstructive lands³.

In order to prevent any unreasonable rise in prices, the real estate orientation grants the State the right to exercise the preemption, which precedes what is specified in Article 795, and thus the new arrangement of persons practising the preemption is as follows:

- The state,
- The Bare owner,
- The partner in joint property,
- The beneficiary of the right usufruct.

We also find that the practice of the preemption is also determined by the State in the sale of commercial real estates belonging to foreign persons, who resided in Algeria, where the State intervenes directly to buy these real estates and rights, in the event that their owners wish to sell them⁴.

However, according to the correspondence issued, the State exercises this right only if it sees interest in such property. Thus, any person has the right to purchase it, provided that he obtains a licence to act by the prefect, The latter is granted, if it is ascertained that the State does not want to buy such real estates, always by the prefect, who is regarded as the State's representatives at the local level⁵.

Second Requirement: Conditions Of Exercising The Preemption By The State

All real estate transactions and real estate disposals in agricultural and urban property shall be subject to the State's practice of preemption. The real property transactions subject to preemption focus on:

- sales of various kinds, even if they are not adapted as a sales contract by the parties, for example: the sale for life time revenue, mortgage on real fulfilment of a debt, a swap, and the sale by auction,
- The presence of a preemptive, which is the state, the owner of the bare, and the presence of a beneficiary of the right usufruct, if the bare ownership is sold.

As regards the conditions, which must be found in the real estate, subject to the State's preemption, a distinction must be drawn between those of the agricultural property and those of the urban property, as follows:

1. The Conditions Which Should Be In The Agricultural Real Estate :

¹-For more informations about the meaning of uninvested agricultural lands, see article 48 of the real estate orientation law n°: 90-25.

²- See article 62 of the real estate orientation law n°: 90-25.

³- See article 71 of the real estate orientation law n°: 90-25.

⁴- See the Ministerial instruction No. 172, dated in 02 November 1991⁵ issued by the Directorate of State Property
- Ibid. ⁵

The agricultural real estate subject to the State's preemption is the agriculture investee, under which the State is granted a right usufruct. This agriculture investee consists of unbuilt land and built real estates above the agriculture investee¹.

Thus, if the entire the agriculture investee is offered for sale, here and in this case there is no distinction between built land and unbuilt land, the State exercises its right of preemption to the entire agriculture investee. If the buildings are offered for sale separately from the unbuilt land, here and in this case the State may exercise the preemption on all the equipment offered for sale, unlike those buildings intended for housing that are freely disposed of, if they are offered for sale individually, and therefore the right of the preemption may not be used in them².

2. The Conditions Which Should Be In The Urbain Real Estate :

The use of the preemption's permit by the state is of great importance, because its use is practised on all urban lands without exception.

In exercising preemption over urban real estates, the State ranks precedently among persons entitled to litigation in the Civil Code, referred to in the aforementioned article 795. This is explicitly stipulated in the real estate orientation law 90-25.

It should be noted that the State's exercise of its right to adopt preemption on urban areas varies from one region to another, as determined by the supply and demand market for this type of land. Where supply and demand are not the same in all areas specified under reconstruction tools. The land and areas in the centre of the urban centres are strategically located, thus increasing their demand, given their economic and cultural activity. This has made the need to use the administrative preemption of the State very important and must be compared to others. The situation is also the case for sensitive areas located on the periphery of cities³.

Third Requirement: Persons Exercising The Administrative Preemption

The right to adopt the preemption granted to the State under the said real estate orientation law n° : 90-25, in order to provide for public interest and utility needs, is exercised in accordance with article 71 of the same law by public agencies and bodies determined through regulation. Which are the national office of agrical lands, urban real estate management and regulation Agencies.

1. The National Office Of Agrical Lands :

The national office of agrical lands is a public institution of an industrial and commercial nature, established by real estate orientation law 90-25, and by Decree n° : 96-87 establishing the national office of agrical lands, amended and supplemented by Decree n° :09-339 , of 22 October 2009⁴.

It is a State instrument that acts on its own and by delegation, and the Office's main task is to implement peasant land policy. Accordingly, the Office is mandated and authorized by the State to undertake a range of tasks as part of its activities⁵.

²-احمد خالدي، مرجع سابق، ص 61.

³-اسماعيل شامة، النظام القانوني للتوجيه العقاري، دار هومة، الجزائر، 2004، ص 153.

⁴-احمد خالدي، مرجع سابق، ص 107 واسماعيل شامة، مرجع سابق، ص 249.

⁴- Decree n°: 96-87 establishing the national office of agrical lands, of 24 February 1996, amended and supplemented by Decree n°:09-339, of 22 October 2009.

⁵-Ibid

The national office of agrical lands exercises the right to a preeption to own land for sale, under article 52 of law n° : 90-25 mentioned above.

The headquarters of the National Office of agrical lands is "Algiers", under the supervision of the Minister of agriculture. This is in accordance with the second article of Executive Decree.

It should be noted that the Algerian legislature, in its legislation on the Decree, has eliminated the implementation of the agrical land policy by local communities, although the real estate orientation law provided for the need for balanced representation of public real estate regulatory bodies in order to safeguard the interests of the State, local communities and agrical investors¹.

Thus, prior to the drafting of the waiver contract, notaries are obliged to inform the state properties director of the prefecture to enable him to exercise the preemption for the benefit of the State. The latter is granted a period of one month, from the date of receipt of the notification from the notary and this is to exercise the preemption by the office or allow the waiver².

2. The Urban Real Estate Management And Regulation Agencies :

According to article 17 of the the real estate orientation law, under executive decree n° : 90-405, local agencies for urban real estate management and regulation are established and regulated. Where the first article of this decree stipulates that both municipal people's assemblies and prefecture people's assemblies shall, alone or in cooperation with each other, establish institutions mandated to operate their urban land bonds³.

Therefore, the exercise of an administrative preemption on urban real estate is by local communities. Municipality, prefecture, as well as State in accordance with article 71 above. However, under article 1 of the 90-405 Decree, the Municipality and the prefecture are designated to establish the local agency responsible for organizing urban property, and the State is exempt from this. The latter is always the author of the preemption always exercised directly through the State Property Directorates of the prefecture. So local communities become an instrument of local urban land policy⁴.

Fourth Requirement: Administrative Preemption's Procedures

In the absence of the specific applicable text of the preemption procedure exercised by the State and local groups, and respecting the procedures provided for by civil law, the legal person must follow the following stages in the exercise of the preemption, beginning with the intention declaration to act and then determining the authority's position on the declaration of public utility, and finally the impacts of the preemption.

1. The Intention Declaration To Act :

Before completing the disposition of a final contract, both the seller and the buyer of the real estate must declare their intention to contract to both the national office of agrical lands, if it relates to a agrical real estate, or to the competent urban real estate management and regulation agency, if it relates to an urban real estate.

¹ - See the article 63 of the real estate orientation law n°: 90-25.

² - ليلي زروقي وحمدي باشا عمر، المنازعات العقارية، دار هومة، الجزائر، 2020، ص 117.

³ - See article 01 of executive decree n°: 90-405, dated 22 december 1991.

⁴ - احمد خالدي، مرجع سابق، ص 109.

It would be preferable for the said declaration to be made in the form of an official editor to be edited by the notary and to inform the relevant bodies .It also contains a sufficient statement of the real estate, its location, its area, an accurate definition of the name, surname and occupation of each of the parties, and the agreed price must be determined. In addition to mentioning information that allows the authority to assess the transaction and decide on it. The law ensures that the time limit granted to the institution for responding to that offer is set, and this is a protection for the original parties in the contract to be concluded, as this term can be estimated at least two or three months¹.

2. The Opinion Of Public Institution From The Intention Declaration :

After both the seller and the buyer declare their intention to dispose of the real estate to the authority concerned, it is then necessary to know the authority's position on the declaration, in particular the price. Her attitude appears in two images, either rejection or acceptance.

-Rejection : which is express and communicated directly to the original parties to the contract, or to the notary in charge of writing the contract. or implied the silence of the institution concerned to respond within the legal term granted to it. This term as referred to is not legally specified. Thus, the parties to the contract can complete the original contract.

- Acceptance : The refusal shall be express and communicated directly to the original parties to the contract, or to the notary in charge of writing the contract within the specified time limit. The relevant institution may change the price agreed between the seller and the buyer, which is a an exeption from article 894 of the Civil Code, in which case the exercise of the preemption may be accepted as follows:

- The institution concerned shall either accept the price specified in the intention declaration to act, in which case the contract between the seller and the institution shall be entered into in an official form.

- In another case, the institution concerned can only approve and accept the offer in principle, with less price than authorized in the intention declaration to act, and here two hypotheses can be envisaged:

-The first hypothesis is that the seller accepts the change of price, the contract is held and the parties are required to edit the contract in official form.

-The second hypothesis is that the seller rejects the offer to change the price authorized in the intention declaration to act, which in this case remains for the public institution to resort to the judiciary to determine the price of the real estate for sale².

After the notary concludes the contract, he has to informe to inform the state properties director of the prefecture, The information should include essential elements, in particular the identity of the seller's and buyer's parties, as well as the precise identification of the real rights to be sold, as well as the agreed price, In order to enable the the state properties director to request preemption for the benefit of the State, the state properties director shall, after consulting the State Directors in charge of agriculture and reconstruction, inform the notary of the decision taken within 30 days from the date of receipt of the request in an official manner.

¹ -اسماعيل شامة، مرجع سابق، ص 251.

² -احمد خالدی، مرجع سابق، ص 100، 101.

If the preemption is not exercised, the notary is obliged to insert the reply of the state properties director in the contract for Contract of waiver of preemption¹.

If the preemption is not exercised, the notary is obliged to insert the reply of the state properties director in the contract for Contract of waiver of preemption.

The preemptor, who is the State, must declare the desire to take the preemption to the notary within 30 days, starting from the date of the information to which the notary is directed, or the right to the preemption is lost. The licensing institution must respect this and declare its desire to do so. The desire of declaration to preemption must be in an official contract, otherwise invalid².

The competent institution authorized by the licence, whether the national office of agrical lands or the urban real estate management and regulation agencies, or the the state properties director, depending on the nature of the real estate in question, in the name of the State, must deposit the price and expenses at the notary who has written the contract within 30 days at most, from the date of the declaration of desire to preemption. Provided that is before filing an action of preemption, otherwise, the right to take the licence falls³.

3. Impacts Of Violation Of The Rules Of Preemption :

The contract is null and void in respect of each real estate transaction carried out on agricultural lands, in which the procedure of declaring the intention to act by the seller and the buyer is not respected, and it has no effect on the direction of the National Peasant Lands Office.

The nullity of the contract entails, for each real estate transaction on agrical lands, in which the procedure for intention declaration to act by the seller and buyer is not respected, and has no effect on the national office of agrical lands.

The latter could request cancellation of the sale, and also replace the buyer with retroactive effects and pay a fair price. This is stipulated in article 56 of the the real estate orientation law n° : 90-25 Mentioned, This is as follows: « any real estate transaction made in violation of the provisions of article 55 above is null and Ineffective, In this case, the transfer of the property realized by this transaction may be approved to the qualified institution for payment of a fair price. »

Notably, this legal provision mentioned the sanction for violating the rules of the preemption exercised on agrical lands. However, it did not mention the penalty for violating the rules of the preemption exercised on urban lands.

Similarly, the error caused by the public authority's lack of respect for due process of law presents a decision of nullity in accordance with the rules of cassation and administrative justice. Its decision to use the lever is an administrative one.

Its decision is subject to annulment in accordance with the rules of the law and the administrative judiciary. Because its decision to use the preemption is an administrative one⁴.

This concludes the end of the examination of the provisions on administrative preemption, which the Algerian legislature is faulted for neglected to provide for the procedures relating to them, although it is an important means of acquiring national properties.

1- المرجع نفسه.

2- See articles 799,801 from civil code.

3- احمد خالدي، مرجع سابق، ص 102.

4 - اسماعين شامة، مرجع سابق، ص 254.

CONCLUSION

The rank of the state in taking the right of preemption varies depending on the nature of the real estate. So if the preemption is focused on agricultural lands, the rank of the State shall be established according to the order contained in the article 795 of the civil code. But if the preemption will be exercised on a real estate belonging to the urban lands or reconstructable lands, and in order to avoid any speculation in the price on these lands, the order of the state in taking the right of preemption, whether it is a usufruct right owner or a landowner, would be prior to the order mentioned in the article above. In this case, the rank will be as follows: the state, the bar owner in the common ownership if a part of the common ownership is sold to a foreigner, the partner in the common ownership if a part of the common ownership is sold to a foreigner, the bar owner if the whole bar ownership or part of it is sold.

Almost the state exercises its right to preemption through the public bodies responsible for the real estate regulatory, represented by the national office of agriculture lands, the local agency of local management and organization, according to the nature of the real estate if it is a agricultural land or an urban land. The said bodies shall exercise the preemption in accordance with the procedures mentioned in the article 795 of the civil code.

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