

BILCARE VIEWPOINT

Property Registration

Secure document. Secured ownership

Property Registration in India provides the property owner with legal sanctity for the purchase transaction executed on the property during transfer of ownership. The registered sale deed document protects an individual's ownership rights over the property and is a vital "proof of property transaction" that is accepted by the Indian Court of Law in the case of property related disputes.

However, over the years, several instances of document forgery, duplication and faking have led to illegal property transactions and false claims on property ownership, resulting in many legal disputes and several bonafide property investors across the country being duped. Producing fake property/title documents is also a common method used by fraudsters to deceive banks/HFCs into providing property loans on illegally acquired/non-existent property, or to get multiple financing on the same property.

The risks associated with such counterfeit title deed documents are significant and have direct implications on the property transaction eco-system in the country, and in securing the ownership rights of bonafide property owners. Document security and integrity is absolutely essential for the effective governance of property transactions and to uphold the sanctity of the registered document as an authentic "proof of ownership".

This paper outlines how Bilcare's nonClonable™ capability can be leveraged to deliver an innovative "Document Security and Authentication" solution that comprehensively addresses these very critical issues of counterfeit title documents, property transaction frauds and resulting government revenue leakage.

I. PROPERTY REGISTRATION: Introduction

Property Registration in India is governed by the Indian Registration Act, 1908, and the Indian Stamp Act, 1899. The state-wise Registration and Stamps Department is entrusted with the responsibility of administering these acts through collection of the Registration Fee and Stamp

Duty (as stipulated in the state-wise Stamp Acts) and executing the sale/transfer of property/title deeds.

Property Registration provides protection of ownership rights to citizens, at the same time as constituting a major revenue stream for state governments.

(A) State Revenue Earner

- The Registration and Stamps Department is typically one of the top 2 or 3 revenue earners for any state
- Property Registration constitutes nearly 70–80% of revenues for any state government's Registration and Stamps Department
- With Property sales booming in many Tier 1 and Tier 2 cities across India, the collection of Registration charges and Stamp Duty is growing exponentially both in terms of volume and value.

(B) Legal Ownership Rights

- Provides the owner of the property with legal sanctity of the purchase transaction on the property he/she owns
- A registered property is the only document that is accepted as “proof of transfer of ownership” in Indian Court of Law in the event of property-related disputes
- Accepted by banks as a required collateral to sanction home loans or mortgages or cash credits
- A registered property document serves as validation for the buyer that the seller genuinely owns the property in question.

Thus, registration of a property becomes the most important legal formality of any property transaction and any non-compliance with this process (avoidance of registration and evasion of stamp duty) and/or falsification of documents/information while executing the transaction (fake stamp instruments, falsification of property details/ownership) results in violation of the Registration and Stamp Acts and is a potentially punishable offence according to law.

II. FAKE PROPERTY DOCUMENTS: Reasons for property transaction fraud

The process of registration of a sale/transfer deed has in itself legal sanctity that assigns new ownership of the property to the buyer. However, the lack of authentic property related documents that are used in otherwise legally valid registration transactions, has given rise to fraud in property transactions.

There are frequent false claims of ownership involving the use of fake/forged property documents to illegally occupy properties and execute transfer/sale transactions with gullible buyers. Says Rajiv Rai, Vice President – Corporate at Assotech, "Anyone who wants to enter into an immovable property transaction is expected to investigate its title themselves. If one unknowingly buys a defective title, the only remedy is litigation as no guarantee is offered by the state."

Property fraud constitutes a major portion of all fraud reported to the police. An article published on *expressindia.com* dated April 30, 2008 points to the fact that most of the fraud being investigated by the Economic Offences Wing in Chandigarh pertained to property, with large numbers of cases involving forged documents used to occupy properties.

The menace of fake title deed documents has also had significant impact on the Banking and Housing Finance sector. Title deed documents (which are necessary requirement for banks to sanction property loans) are faked by individuals in order to gain loans for illegally acquired properties/unauthorized properties. Moreover, this method of faking registered sale deed documents is a common practice for gaining multiple loans from different banks, as the original sale deed is retained by the bank that sanctioned the first loan.

A 2006 report by the Reserve Bank of India (RBI) indicated that submission of fake documents to procure housing loans is a rampant practice in the property sector and attributed this to the sharp rise in housing loan fraud. In fact, the National Housing Bank (NHB), a subsidiary body of RBI has flagged up submission of forged title documents for gaining housing loans and Multiple Financing as "HIGH" severity fraud in their *Fraud Circular* to all HFCs and Banks.

The Property Sector boom in India and the resulting exponential growth in registration volumes have also led to an increase in property related fraud and fake/illegal transactions.

III. PROCEDURAL AND SYSTEMIC GAPS: An assessment of the property transaction lifecycle

The problem of fake documents should not be viewed merely in the literal sense of the term 'document'. There are bigger procedural and systemic issues in the property registration cycle (Fig. 1) that contribute to fraud in property transactions. Hence, it is important to review the broader procedural and systemic aspects to address the issues related to fraudulent documents being used to falsely claim ownership.

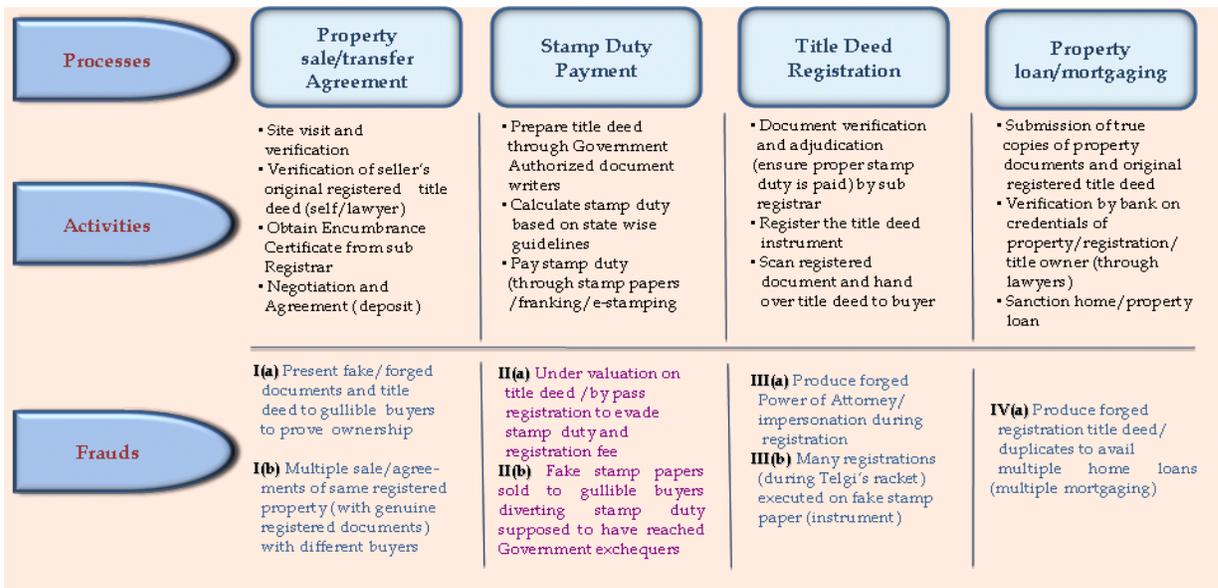


Fig 1: Property Transaction lifecycle – Processes and existing vulnerabilities

Figure 2 explains how the property transaction cycle is vulnerable to various types of fraud.

Process ID Ref	Fraud	Reasons for the fraud
I(a)	Present fake/forged documents and title deed to gullible buyers	<ul style="list-style-type: none"> Seller tries to produce forged documents and sell off a property under mortgage to gullible buyers (cannot verify mortgage clearance through Encumbrance Certificate as Equitable Mortgages are not registered) Seller can also get duplicate copy of registered sales deed on pretext of original lost and present to buyer
I(b)	Multiple sale/agreements of same registered property with different buyers	<ul style="list-style-type: none"> Seller can capitalize on the time from initial agreement (not registered) and registration to have similar sale agreements with other buyers and collect advance/deposit from them Typically does the registration with the buyer who makes the first full payment
II(a)	Under valuation on title deed /by pass registration	<ul style="list-style-type: none"> Valuations published by Registration Department in most fast growing cities far lower than the prevailing market prices/transaction value The difference is declared and actual value is transacted in "black" which is difficult to trace and prove
II(b)	Fake stamp papers sold to gullible buyers	<ul style="list-style-type: none"> Exploit shortage of genuine stamps supply in the market Nexus between stamp vendors, counterfeiters, political and administrative establishments
III(a)	Producing forged Power of Attorney (POA) /impersonation/fake property documents during registration	<ul style="list-style-type: none"> No foolproof document authenticity checks during registration Registrations executed through forged POA normally on properties owned by NRIs Registration office does not take responsibility for authentication of parties and property. It is only left to the due diligence carried out by the buyer
III(b)	Registrations on fake stamp papers	<ul style="list-style-type: none"> There is no means of checking stamp paper authenticity at sub registrar's office
IV(a)	Forged/duplicate title deeds used to avail multiple loans	A second bank cannot verify if a property is already under mortgage with another bank as Equitable Mortgages are not registered and cannot be validated through Encumbrance Certificate
IV(b)	Execute sale deed between family/friends to avail bank loan	Get into a sale deed with a relative and apply for a home loan. The loan amount received are used for investments elsewhere. The installments are paid in small amounts over the loan tenure (bank verification can be worked around)

Fig 2: Systemic loopholes used in committing property transaction frauds

It should be noted that the risks associated with counterfeit title documents enabled by systemic shortcomings and inadequate controls are significant and have direct implications on the property transaction eco-system in the country, and on securing the ownership rights of bonafide property owners. As Pawan Swamy, MD-west, Jones Lang LaSalle Meghraj says, "The property

registration system in India has traditionally been incredibly complex. It does not factor in the need for ease and transparency at a time when the sector needs to be made attractive to buyers."

In a study conducted by Transparency International in 2009, on the criterion of efficiency in property transaction, India ranks a low 112 among the 178 countries studied.

Lately, many state governments have taken initiatives to upgrade the technology supporting the process of property registration. Different state governments are at different levels of maturity in terms of computerization of registration. In many states, the process of registration involves scanning of registered documents, taking photographs and biometrics of executing parties and system-generated serialization of registration. These initiatives have helped the Registration Department in simplifying, speeding up and improving efficiency in the registration procedure. It aims at providing transparency in the registration process and smoothening of the Government-Citizen interface.

While the current technology upgrade initiative is a welcome development, the fact still remains that the system of registration (registered sale deed) offers no further assurance to the title than that claimed by the seller/property owner.

IV. THE IMPERATIVE

To provide an undisputed ownership right on the property, it is imperative to secure the authentic registration title deed from being tampered with or faked, and to also provide a secure way of authenticating the genuineness of this ownership document. To achieve this, there is a need for a "tamper evident - non-duplicable" feature on the registered document which can provide a 'foolproof' mechanism to verify and validate the ownership claim of an individual on the property. A system is needed whereby only one property transaction can be made and a "single source of truth" regarding property ownership exists.

The solution needs to have built-in, systemic controls for secure and effective Due Diligence and foolproof document security during the registration process. This would help prevent the use of fake/forged documents from being used to claim or demonstrate ownership over a property.

Registration Process:

- Will validate seller's ownership through title deed document authentication
- Will secure the executed property transaction document upon registration
- Will provide a foolproof mechanism to store all property related documents against the secured document reference
- Will provide an identity of ownership of property
- Will maintain a trail of all authentic registrations of a property to maintain a "single source of truth" of ownership transfers of this property
- Will create a systemic control where authentic registration of property transaction becomes a pre-requisite for downstream selling of property (through linked ownership transfer transactions) disincentivizing people from evading registration. This, in turn, would enable improved revenue collections for state governments through registration fees and stamp duty

Due Diligence (Buyers/Banks):

- Will provide the buyer with a single point for verifying a property document and the property ownership claim of a seller
- Will provide a faster and more convenient way of retrieving property ownership history
- Will authenticate documents (even that of a genuine owner) for Banks to confirm whether fake documents have been submitted in order to gain multiple loans
- Will provide a secure mechanism for retrieving registration and property-related details

This kind of document security, authentication-based Due Diligence and registration system will provide several benefits and will go a long way in terms of

(A) Reducing property related frauds

- Securing and authenticating registered sale deed will prevent fraudsters from selling property to gullible buyers through proving ownership by using fake/forged registration documents
- Will address the problem of multiple mortgaging (reduce NPA instances for housing financing banks) currently plaguing the property finance institutions, by providing a foolproof mechanism for authenticating the registered sale deed document
- Will avoid multiple/illegal registrations of the same property due to linking of transactions executed on a particular property, thereby raising an alert that a duplicate transaction is being carried out

(B) Guaranteeing ownership rights

- Preventing registered sales deed documents from being forged or faked will provide a secured property ownership, preventing illegal possession/encroachment and avoiding legal hassles for bonafide property owners
- Will transform the registration process from only being a system of “registration of transactions” to a broader imperative of “providing ownership sanctity” by linking authentic ownership change transactions
- Will create a systemic control where authentic registration of property transaction becomes a pre-requisite for downstream selling of property (through linked ownership transfer transactions) dis-incentizing people from evading registration (and improving Government Registration revenue collections)
- Will help bring about structural improvements through authentication in land registration and ownership, in turn positively impacting Governments’ rural land reforms initiatives

V. ROLE OF BILCARE NONCLONABLE™

Bilcare nonClonable™ delivers an innovative security solution for protecting property title deeds and critical ownership information from forgery, theft and fraud. The nonClonable™ system comprises of tags with a unique materials-based “fingerprint” that is prohibitively difficult to replicate. This technology innovatively exploits micro and nano-particulate materials together with their optical properties to provide a foolproof authentication solution. The “nano particle” fingerprint is generated randomly and cannot be duplicated through any known means, even by Bilcare. This high level of security renders the entire registration and authentication system totally secure.



Fig 3: Security 'nano-tag'??Thought we weren't to use this term??Suggest Nano fingerprint with barcode for foolproof document security

The 'nano fingerprint' can be authenticated only with a proprietary reader. The reader scans the overt identification system along with the fingerprint, and communicates the encrypted information through the Internet using a mobile phone or personal computer through protocols such as GPRS / 3G / Broadband to a secure signature server. The backend system then authenticates the label. More importantly, this authentication system can be easily integrated with the existing IT systems and applications used in the Registration Department.

Illustrated in *Figure 4* is an overview of how the Bilcare nonClonable™ capability can be leveraged to provide a comprehensive document security and authentication solution to ensure security of ownership rights of citizens and prevent fraudulent ownership claims

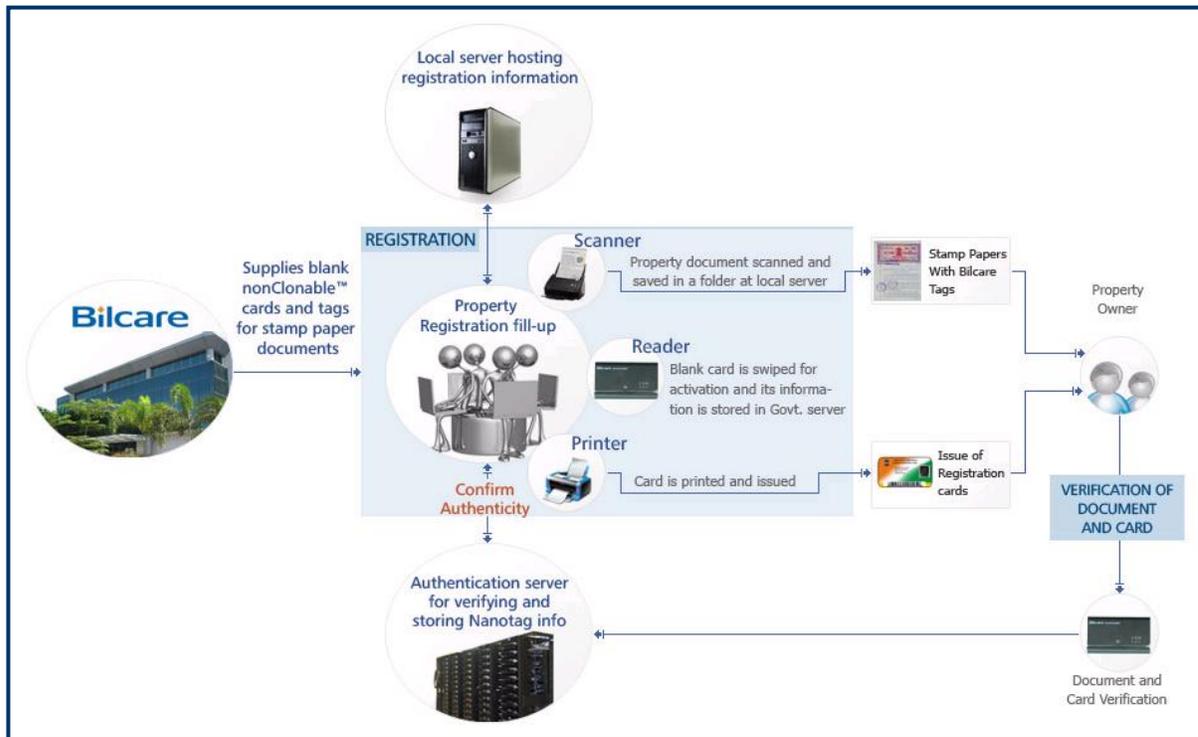


Fig 4: nonClonable™ solution for security and authentication of registered property documents

The nonClonable™ feature provides several benefits. Listed below are some key benefits of this technology:

- Each registered document gets a unique tag, encrypting its transaction origin and credentials.
- As the tag is irreproducible, the document security is impregnable.
- Documents are integrated to a powerful database to provide secure authentication and Due Diligence capability
- Real-time authentication is achieved through custom-made readers
- Tamper-evident tags alert the recipient to any misuse

While fake title deed documents have a significant societal impact in terms of property fraud, many other issues in the registration process, such as fake stamp papers, also cost the state governments crores??scores?? of rupees in lost stamp duty revenues. Hence, the unique capability of Bilcare nonClonable™ can also be extended to securing and authenticating other documents and stamp instruments used in the end-to-end Property Transaction lifecycle, thereby creating a much more secure eco-system at each stage of the process (Figure 5).



Fig5: Using nonClonable™ as a comprehensive solution for document security and e-Governance

The Bilcare nonClonable™ capability and its resulting “Document Security and Authentication” can be translated into a formal e-Governance solution which will hold significant potential for introducing the much-needed transparency and security into the process of registration and

property transaction. The process involved will ensure a curtailment of property fraud through manipulation of document integrity, such as faking, forging or tampering and safeguard the rights of the bonafide property owner.

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