GBS IMPACT Volume 10, Issue - 02, July – December 2024, ISSN: 2454- 8545

https://doi.org/10.58419/gbs.v10i2.1022423

BROAD STEPS INVOLVED IN PRIVATE LAND ACQUISITIONS FOR REAL ESTATE DEVELOPMENTS: A LITERATURE OVERVIEW

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ABSTRACT

Real estate developments can take place only when land parcels are available. Land acquisition is the process by which private developers or government agencies purchase privately held land parcels against compensation. The author with an experience of more than two decades in this field and being part of several land transactions, provides an overview in this article about the major steps involved in acquisition of land parcels by private real estate developers. The method of this study is literature review. Each step is explained with reference to the literatures available for the research works happened in the past. Beginning with a pre-acquisition evaluation of the land site, it goes on discussing risk assessment, then feasibility analysis, and finally concludes with deal closure. Key elements of the definitive agreement are captured in this paper. Emphasis has been placed on the necessity of doing due diligence in real estate purchases. In the end, the process of registration of the conveyance deed and delivery of possession of the land from the seller to developer is discussed. This study summarizes the key steps in land acquisition for real estate development.

Keywords: Real estate, development, land acquisition, market research, feasibility, risk assessment, negotiation, due diligence, agreement, conveyance, possession

1. INTRODUCTION

The practice of adding value to real estate by making noticeable upgrades is known as real estate development. The process of development includes anything from creating new projects to renovating already-existing structures. It is the process by which the actual locations where we work and live are imagined, planned, built, and occupied (Bulloch & Sullivan, 2010). The process of developing real estate requires a lot of money and expertise, and it typically takes a huge team of experts several years to finish. “Property development is the process directed at the increase in value of an existing property (underdeveloped or developed) by the application of resources (material human and capital)” (Cloete, 1998). Real estate construction includes the building of offices, retail establishments, theaters, hotels, restaurants, and, of course, single-family houses and apartments.

Real estate development process goes through three phases: pre-construction, construction and post construction/ operation phase. Practically, land acquisition occurs at the very beginning of pre-construction. Being actively involved in real estate for more than two decades, the author had gone through the steps and process of development several times. Having substantial interest in this field, the author has so far reviewed various literatures. There are a lot of diverse methods and points of view on this topic. The idea is that the development process is flexible and can be tailored to the requirements of any developer, rather than being inflexible. When it comes to acquisition of land, there are certain key steps that comprise the whole process to be followed to be successful in the endeavor.

1.1. PROBLEM STATEMENT

A lot of work has been done so far on real estate development and to some extent on land acquisition as well. Based on the number of recent research papers, the area of real estate development seems to be a field that is gaining much attention. However, the author has not so far come across any simplified guidance narrating the major steps involved in private land acquisition which is paramount to real estate development. In absence of such work in the body of knowledge, the new entrants or beginners in this domain would often face hiccups due to skipping or not being able to follow the essential steps. The author finds it relevant to provide a narrative on the key steps involved in private land acquisition for real estate development.

1.2. OBJECTIVE OF THE STUDY

Understanding the private land acquisition process from a practical perspective is the main motivation for the author to conduct this study. Land is the most basic and important component in real estate development. This paper will discuss the steps involved in the process acquisition of land. As part of acquisition of land, the main activities are market research, land identification, risk assessment, feasibility study, commercial negotiation with the seller, entering into agreement or understanding against advance payment, due diligence, and then finally conveyance followed by physical possession handover. Acquisition of land is the developer's first significant project commitment. A development's beginning, evaluation, and acquisition phases are interconnected and frequently take place at the same time (Wilkinson, Reed & Cadman, 2008).

Despite being one of the most important and prominent industries in the world today, Altona (2009) notes that it is astonishing how little information and experience there is about property development. The property development framework for developers is one of the contributions Altona (2009) makes in an attempt to address the dearth of available literature under this pretense; however, land acquisition method has not been discussed in the paper. In this article, the major activities associated with the acquisition of a land parcel under the broad headers are discussed in view of literature review. The journey of the entire process is narrated in sequence the way the activities take place under any normal business environment.

2. METHODOLOGY

This study employed qualitative methods through reviewing of literatures on real estate development and several aspects of land acquisition for development. First, by examining nine relevant works of literature, the author has studied the process of property development. This paper explains the essential aspects while reflecting the viewpoints of the literature on the property development process. Three articles are cited to comprehend the viewpoint of market research, three more for identifying land, and four more for evaluating risk. In a similar vein, the author reviewed seven, six, three, two, and four different pieces of literature in order to study feasibility analysis, buyer-seller commercial negotiations, the due diligence process, sale agreement execution, and conveyance. The idea was to closely study the associated activities of property development while keeping the focus on land acquisition. The author has explained each aspect of land acquisition with reference to literature reviewed.

2.1. REAL ESTATE DEVELOPMENT

Olsson, Sørensen and Leikvam (2015) define real estate as an investment in land with the goal of increasing the value of the land by changing its usage as per demand. Real estate development involves a long-term process that includes different phases. Medalen (2004), Røsnes and Kristoffersen (2017) as cited in Olsson et al (2015) outline the phases differently as shown in Fig. 1.

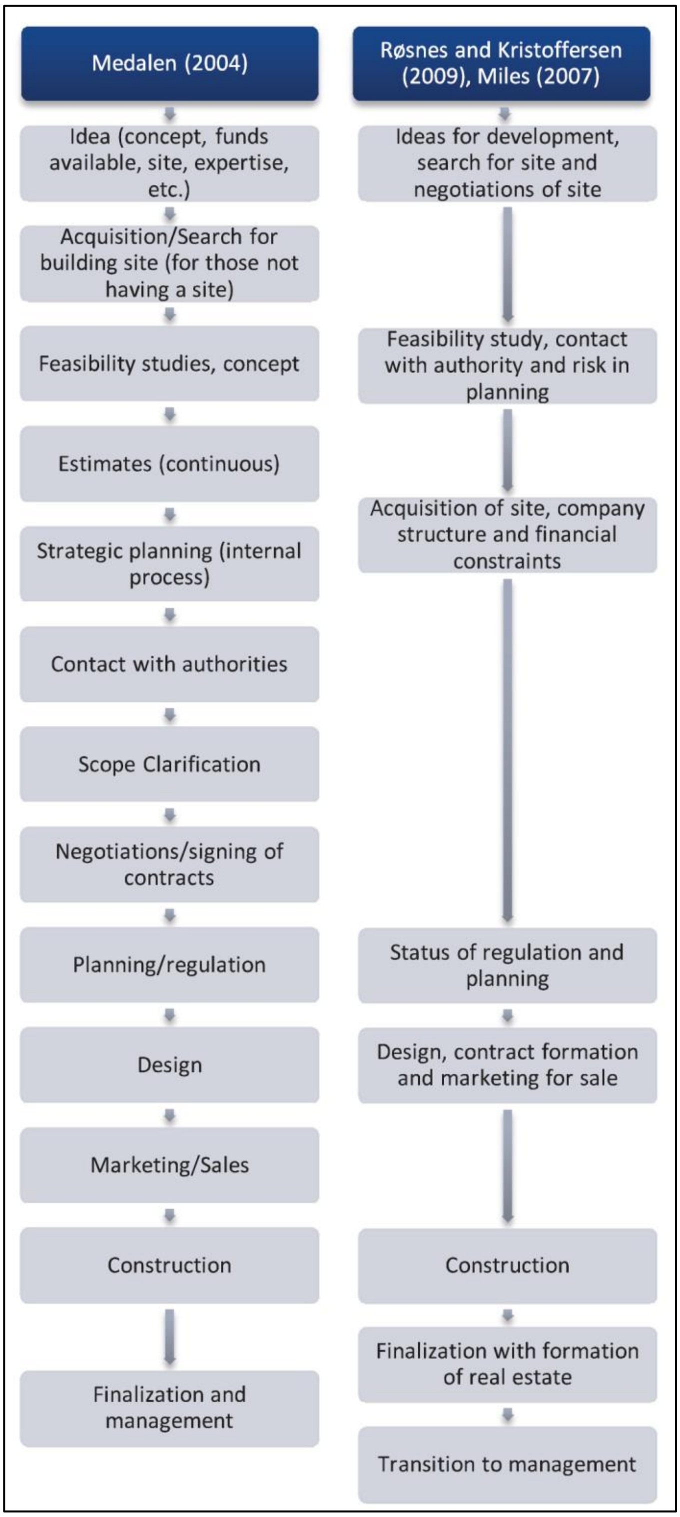

Fig. 1: Two linear models in the real estate development process
(Source: Olsson, Sørensen & Leikvam, 2015).

The process of adding value to real estate by making noticeable modifications is known as real estate development. Bulloch and Sullivan (2010) affirm that investment in land, new construction, and building renovations are all parts of the development process. It is the process by which the actual locations where we live and work are envisioned, planned, built, and occupied. With a primary focus on preconstruction processes, Costello and Preller (2010) offer a broad summary of the real estate development process and pinpoint three key elements: location study for site selection, market research and financial analysis. In this study, the author decides to first discuss market research prior land identification i.e. site selection. Risk assessment is the additional element discussed in this study before discussing financial feasibility analysis. Subsequently, further additional elements: commercial negotiation, sale agreement, due diligence and conveyance are discussed as part of land acquisition.

2.2. MARKET RESEARCH

The first thing any investor needs to do before entering the market is market research. Verifying that the proposal is feasible and fits into the current market is the goal. A real estate project's initial feasibility assessment must include a market analysis. The project is significantly shaped by market research during the phases of creation and management. When a project is up and going and the developer discovers that absorption falls short of expectations, market experts are frequently called upon for repositioning techniques. Variations in development projects, stages of development, and interests being served are as numerous as the methods of market analysis (Kahr & Thomsett, 2006). A thorough study of data and market research is crucial to achieving the intended return on investment (Shende, Joshi, Sonar & Nagargoje, 2020).

Market research's functions include analyzing the macro and micro-level market-related factors that influence project profitability, assisting with issues related to market entry and proactive project design, and providing the absolute prices and absorption rates required to evaluate the financial viability of a specific project (Mourouzi-Sivitanidou, 2020). Researching the real estate market requires a methodical and planned strategy. Market, demand, supply, and environment are the four axes around which one can divide the analysis to achieve results. Analysis of real estate market is the process of developing a thorough understanding which helps in deciding whether it is appropriate to make an investment. A prudent investor would always conduct a market analysis prior to making any real estate purchases. Market research and analysis determines whether real estate micro-market is a better fit for the investment. Also, it informs the investor about the demographic factors in order to control the development of the area in which the investment in intended. Real estate market analysis may help identify product and consumer niches and offers insightful advice for choosing the best moment to enter a market. Additionally, it offers essential insights for financial feasibility and micro-market analyses. Forecasts of market supply, demand, and prices/rents are examples of such inputs. While market rent and price projections can serve as the foundation for project gross revenue forecasting as well as changes in project rents and prices, market supply and demand forecasts are essential for determining the project's fair market share and absorption timing (Mourouzi-Sivitanidou, 2020).

A thorough market analysis should suitably conduct a growth analysis of the region in order to pinpoint its economic drivers. The real estate market's macroeconomic study provides insight into the performance of real estate in a particular region. The competitive advantages and disadvantages of the site or location are determined by a micro-marketability analysis.

2.3. LAND IDENTIFICATION

Development begins when a site or piece of land is deemed suitable for a different or more intensive use, or when the need for a certain use prompts the search for an appropriate location (Wilkinson & Cadman, 2008). Land opportunities come to the developers through various channels such as property consultants, direct offerings from the landowners, Government auction publications etc. While evaluating a land opportunity for understanding the development potential, developers take into consideration factors like frontage to depth ratio, floor space index (FSI) or floor area ratio (FAR), area of land parcel, distance from slum, abutting road width and percentage of neighborhood development (Pandya & Patel, 2017).

A family's unique needs, which specify certain requirements for the ideal dwelling unit, are taken into consideration while making decisions. Preferences related to the neighborhood or location are also taken into account. These location-related characteristics can be divided into three groups: land-use, socioeconomic, and transportation linked (Hurtubia, Gallay & Bierlaire, 2010). Automatically, during the identification of land parcels, these aspects are taken into account by the developers. Because site selection influences a project's nature, it is essential to its success. A project's disadvantage cannot be surmounted by excellent design or promotion if the site is poorly located, or if demand for the accommodations is low regardless of location. Since land is individualized, every location has distinct qualities. Since a variety of circumstances, many of which are outside the developer's control, can affect the outcome of the site acquisition process, it can be a frustrating and unexpected one (Wilkinson, Reed & Cadman, 2008).

2.4. RISK ASSESSMENT

In real estate projects, risk needs to be taken into account and should never be undervalued. This is because risks can impact the entire project management process by causing delays in project schedules, cost overruns, and product quality (Khumpaisal & Ross, 2009). In this sense, risks are a part of any real estate development project and have a significant impact on the developments involved throughout the course of the property's lifetime. These risks as shown in Table 1 below, for instance, may arise during the feasibility study, design and planning, building, bidding and tendering, marketing, or handover phase of a project. Risks that exist during the first stage also impact how the property is used.

Table 1: Risks assessment criteria

Criteria	***Sub-Criteria***	***Valuation methods***
Social risks	*Workforce availability*	*Degree of Developer's satisfaction to local workforce market (%)*
	Community acceptability	*Degree of benefits for local communities (%)*
	Cultural compatibility	*Degree of business & lifestyle harmony (%)*
	Public hygiene	*Degree of impacts to local public health & safety (%)*
Technological risks	*Site conditions*	*Degree of difficulties in site preparation for each specific plan (%)*
	Designers and Constructors	*Degree of Developer' satisfaction to their performances (%)*
	Multiple functionality	*Degree of multiple use of the property (%)*
	Constructability	*Degree of technical difficulties in construction (%)*
	Duration	*Total duration of design and construction per 1,000 days (%)*
	Amendments	*Possibility of amendments in design and construction (%)*
	Facilities management	*Degree of complexities in facilities management (%)*
	Accessibility & Evacuation	*Degree of easy access and quick emergency evacuation in use (%)*
	Durability	*Probability of refurbishment requirements during buildings lifecycle (%)*
Environmental risks	*Adverse environment impacts*	*Overall value of the Environmental Impacts Index*
	Climate change	*Degree of impacts to use and value due to regional climatic variation (%)*
	Interest rate	*Degree of impacts due to increment of loan rate (%)*
	Property type	*Degree of location concentration (%)*
	Market	*Selling rate of same kind of properties in the local market (%)*

Economic risks	*liquidity*	
	Currency conversion	*Degree of impacts due to exchange rate fluctuation*
	Demand and Supply	*Degree of regional competitiveness (%)*
	Purchaseability	*Degree of affordability to the same kind of properties (%)*
	Brand visibility	*Degree of Developer's reputation in specific development (%)*
	Capital exposure	*Rate of estimated lifecycle cost per 1 billion pound (%)*
	Lifecycle value	*5-year property depreciation rate (%)*
	Area accessibility	*Degree of regional infrastructures usability (%)*
	Buyers	*Expected selling rate (%)*
	Tenants	*Expected annual lease rate (%)*
	Investment return	*Expected capitalization rate (%)*
Political Risks	*Political Groups/Activist*	*Degree of protest by the urban communities (%)*
	Commercial Tax Policy	*Rate of Commercial Tax impact (%)*
	Local Tax Policy	*Rate of Council Local Tax (%)*
	Council Approval	*Total Days of construction, design approval process by Liverpool City Council (LCC)*
	License Approving	*Total Days of license approval process*

Source: Khumpaisal and Ross (2009)

Many factors lead to risks in real estate development. According to Morrison (2007) the factors related to project development are Social, Technological, Economical, Environmental and Political (or "STEEP"), and they occur in the form of both quantitative and subjective. If developers are aware of the risks and know how to evaluate them and their implications, they can either prevent or lessen the risks that could harm their projects and manage the risks that come with it. For instance, land use in terms of planned use with the availability of amenities and zoning of land are parts of site evaluation (Kahr & Thomsett, 2006).

Most developers believe that a variety of subjective factors, including shifting policies, opposition from the administrative apparatus, citizen objections to the building plan, and modifications to environmental laws, are to blame for project risks (Gehner, Halman & de Jonge, 2006). As a result, those will cause the project to be delayed, which will have numerous unintended effects. These include a rise in interest in the project, modifications to the design, and a delay in the start of construction. They will also have an impact on the real estate marketing process and project revenue. It is necessary to conduct a comprehensive analysis of all topics pertaining to local and regional authorities. Permits and public services will be included in this. Land use characteristics of a city's different zones or neighborhoods are influenced by regulations of the Government, which specify the kinds of economic activity permitted in those zones (Hurtubia et al, 2010; Mourouzi-Sivitanidou, 2020). Regulatory approvals are political risks that also need to be assessed, according to Khumpaisal and Ross (2009). It is crucial to remember that the results of this analysis could result in the project being accepted by one developer and rejected by another (Altona, 2009).

2.5. FINANCIAL FEASIBILITY ANALYSIS

A methodical approach for assessing the financial sustainability of an investment is financial feasibility analysis (Björnsdóttir, 2010). It is carried out early in a project's development, before funding is obtained and a go/no-go judgment is taken (Matson, 2000). In addition to projecting a financial story and estimating project costs, values, and cash flow predictions, it looks for predicted revenue and expenses (Laverty & Littel, 2020). The outcomes show how the project will function given a particular set of technological, market, and financial assumptions. When appropriately implemented, it results in the intended strategic framework for investments and the required funding to achieve the objectives of generating shareholder capital and outpacing cost of capital (Helfert, 2001).

Determining the size and kind of real estate that will be built requires careful consideration of the market. It is necessary to complete preliminary designs, which will weigh the expense of the relevant project against its aesthetic market appeal. Further cost estimates will be derived from these designs (Altona, 2009). In general, the first design phase of any project or proposal is called a feasibility study (Hofstrand & Holz-Clause, 2020). It investigates an idea's feasibility. Feasibility studies establish whether an organization has the necessary technology or resources and whether the plan delivers a realistic return relative to the investment's risks. There are many different kinds of feasibility studies, including organizational, market, financial, and technical studies. The main topic of this paper is financial viability (Bresters, 2021). Two distinct elements influence financial decisions: projected risk and uncertainty as well as expected reward. Examining those two elements can be done with a financial feasibility analysis (Fabozzi & Peterson, 2003).

Updating a financial feasibility analysis is made simpler and takes less time when mathematical models are used for the computations. Additionally, it facilitates the process of performing sensitivity analyses on important factors, allowing investors to consider various outcomes and potentially reduce the risk related to these variables. Furthermore, research into the given product is required to develop a precise and distinct understanding of the financial viability of a business plan (Bresters, 2021).

2.6. COMMERCIAL NEGOTIATION BETWEEN BUYER AND SELLER

There isn't a single, widely recognized definition of negotiations (Farlex, 2008); in fact, Gulliver (1979) asserted that definitions of negotiations available in literature are frequently ambiguous and contradicting. Deal-making and conflict settlement are the most common definitions of negotiations that can be found in scientific literature. According to Young (1991), negotiation is a shared decision-making process when two or more parties with disparate interests work together to reach a consensus. To reach a legally binding agreement between the parties is the goal of negotiations. A contract can only be concluded if all parties involved gain anything from it or if it resolves the pertinent issue (Urbanavičiene, Kaklauskas & Zavadskas, 2009). Unlike other product prices, real estate prices are influenced by a variety of factors, including the market's supply and demand ratio, rival prices, and the motivations behind the construction, purchase, or sale of real estate. However, buyers and sellers' ability to negotiate is also a major factor (McKenzie and Betts, 2006; Graham and Gruneberg 2000).

The author with many years of experience in real estate development and having concluded several transactions, is aware of the major heads of terms discussed and negotiated between the seller and the purchaser. The heads of terms (captured in the next section) eventually get covered under the agreement format negotiated and agreed by the parties.

2.7. SALE AGREEMENT

A sale agreement is essentially an initial contract between the buyer and the seller of real estate. It acts as a legally enforceable contract that protects both parties' interests during the transaction's intermediate stages and specifies the terms and conditions under which the property will be sold (Lodha, 2023). A draft is provided on the website of U.S. Securities and Exchange Commission (Commission, n.d.). The major heads of terms covered under the agreement include:

1) *Property description*
2) *Price for the land*
3) *Advance amount payable by the purchaser to the seller*

4) *Timeframe for payment of the balance amount*
5) *Interest on delayed payment*
6) *Provision for termination of the agreement*
7) *Condition precedents, such as –*
    a) *establishment of clear title in respect of the land,*
    b) *payment of arrears towards statutory dues including tax,*
    c) *payment of electricity bill or any other third-party dues,*
    d) *eviction of tenants or encroachments, if any,*
    e) *survey and joint measurement of the plot,*
    f) *demarcation and fencing of the plot etc.*
8) *Documentation and cooperation from the seller for conducting due diligence*
9) *Timeline of due diligence completion by the purchaser*
10) *Arbitration and jurisdiction provisions*

2.8. DUE DILIGENCE

In the real estate market, due diligence is crucial, and skipping it is not sustainable. A period of "discovery" that occurs before ownership is transferred and during which the acquirer can obtain information is likely most prominent when it comes to corporate acquisitions and real estate deals, although it goes far beyond these two areas (Roulac, 2000). The largest fixed asset class in an economy is real estate. Real estate has a number of unique qualities that have a big influence on how real estate markets work. Just and Stapenhorst (2018) in their book Real Estate Due Diligence describe the procedure of legal, technical, financial and tax due diligences. The foundation of any due diligence inquiry is legal due diligence.

A thorough investigation, analysis, and evaluation of the transaction object's factual and legal circumstances is referred to as legal due diligence. Determining, analyzing, evaluating, and managing different risks related to the real estate and the prospects associated with it are the goals of due diligence. Legal due diligence serves the objective of providing legal protection for the findings, which are meant to be conclusive and form the basis for commercial and entrepreneurial decisions (Just & Stapenhorst, 2018). According to Bell (2001), finding the features of the real estate asset is a fundamental task for any real estate transaction, audit, or evaluation. Environmental problems can cause havoc on balance sheets, appraisals, and sales transactions, in addition to a plethora of other potentially harmful circumstances. In disclosure lawsuits, appraisers and accountants are more frequently mentioned alongside brokers and agents. In more severe cases, fraud involving nondisclosure concerns is even leading to criminal prosecutions of professionals (Bell, 2001).

2.9. CONVEYANCE AND POSSESSION

According to Cambridge Dictionary "deed of conveyance" means "a legal document showing that the owner of a piece of land, a property, etc. has changed" (Dictionary, n.d.). A conveyance deed is, in essence, a legal document that certifies the buyer's acquisition of ownership from the seller. It includes important information such as the description of the property, the names of the previous and current owners, the price of the transaction, and any liens or encumbrances that may be present (Capital, 2024). In an ideal scenario, all condition precedents are met by the parties within the agreed timeline as stipulated in the agreement executed by them. The buyer needs to make payment of the balance sum of the consideration amount for the seller to sign the deed of conveyance along with the buyer. Once the deed is signed and executed in presence of the witnesses, it is presented before the Registrar for registration by paying adequate stamp duty and registration fees. Once the process is completed the registered deed is returned to the presenter and it remains under the custody of the buyer (or the financial institution in case any financial assistance is availed for payment of consideration money to the seller).

Agarwal (2018) explains that in its most basic form, the deed registration system entails the parties signing and registering a written conveyance deed for a property transaction with a specified authority. In the event of a future disagreement, the registration record serves as proof of the parties' transaction. Many nations, including the United States, France, the Netherlands, and India, use this system. In this system, a transaction is usually considered finalized when a deed is signed by all parties; registration serves only as a means of preserving records for potential use. The public is welcome to see the registry record and obtain copies as needed. A deed's registration is considered to be a constructive notice to the entire world regarding the transaction it contains (Agarwal, 2018). This implies that anyone planning to deal with the property is expected to be aware of the existence of previous registered transactions and the implications for that property.

With conveyance of title to the land, in general, the seller delivers the possession of the land to the buyer to have full control over the same. In his article Yiannopoulos (1990) used the term "possession" to refer solely to the factual authority that an individual exercises over a physical object with the intention of owning it, or the corresponding authority that an individual exercises over a thing by virtue of a real right with the intent to have that right as his own. This was done for the purpose of an accurate analysis of legal institutions. In the truest meaning of the word, this is possession.

Post registration of the conveyance deed as discussed above, another relevant activity for the buyer is to get his name recorded against the subject land in the local revenue records. With this, the acquisition of land gets concluded.

3. CONCLUSION

Although the field of real estate development is gaining attention and researchers are working on it, there is no paper as a guidance showing the major steps involved in land acquisition for real estate development by private developers, whereas it is paramount. By doing a thorough analysis of the relevant literature, this study has integrated numerous components of the land acquisition process for private developers to create real estate properties and has identified connections between these areas.

This article begins with the pre-acquisition evaluation of the land site, followed by the determination of feasibility and risk, and concludes with the transaction's closure. The importance of negotiation is also highlighted in this article, while it explains how to be ready for the business discussions with the potential seller in order to close the deal successfully to procure the land. This paper also addresses the essential elements that must be included in a sale-purchase agreement since it is a legally enforceable contract between the parties. It also signifies how important due diligence is prior to the conclusion of a transaction. After the conveyance document is registered and the developer receives ownership from the seller, the land acquisition process comes to a successful end.

The main processes in land acquisition are addressed in this study, and therefore it provides a roadmap and action plan for a successful land acquisition process and guarantees that all pertinent factors are taken into account. Future scholars and real estate developers can profit from the streamlined processes presented in this work.

4. LIMITATIONS

This article deals with land acquisition only, which is indeed the most critical aspect but just the beginning of real estate development whereas there are other three broad stages: pre-construction, construction and operation stage. Further research work can be done on these stages of real estate development which can help the industry and the stakeholders. Also, each activity can be studied in a detailed manner in terms of the nature of development such as residential, commercial, industrial and other developments. Litigation is another topic related to land matters which is not discussed in this paper and can be separately studied.

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