

OWNERSHIP OF LAND ON MARS: PROPERTY LAW PERSPECTIVE

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ABSTRACT

As human settlement and commercial activities on Mars become increasingly possible, the question of land ownership on Mars raises significant challenges from a property law perspective. With the increased likelihood of settlement and commercial activities taking place on Mars, many legal questions arise in relation to Mars land ownership. This paper looks at how the property law doctrines can be applied to the ownership and use of Martian lands. Property law has various ways of recognizing rights to property, such as possession, occupation, control, transfer, and the exclusive use of land. The problem that arises is the lack of any sovereign body on Mars that will enable the creation and recognition of these rights. One of the major doctrines studied in this research work is *res nullius*, which involves property belonging to nobody that may be acquired through occupation. The *res nullius* doctrine has played an important role in shaping property laws by offering an ability to establish the right to ownership of property that was previously unowned. It is analyzed whether the Martian lands can be classified as *res nullius* and if acquisition of Martian land through occupation, development or control will allow one to acquire title to the land. This study also discusses some of the basic property law doctrines such as first possession, labor theory of property, adverse possession and bundle of rights. The study further analyses key property law principles, including first possession, labor theory of property, adverse possession, and the bundle of rights concept, to assess their relevance to future Martian settlements. These theories are used to examine how ownership, use rights, and resource exploitation might be structured in the absence of a traditional legal system. The paper argues that existing legal rules are insufficient to address property claims on Mars and that a specialized framework is required. Such a framework should balance private interests, economic development, legal certainty, and the collective interests of humanity while promoting peaceful and sustainable settlement of Mars.

INTRODUCTION

How can property law serve as a means for acquiring rights to Mars? Such a topic becomes more urgent in connection with the technological progress that makes living and economic activity on Mars more realizable. In general, the property law deals with the issues of acquisition, usage, exchange, and protection of land. However, it still remains unclear how property law can be applied to extraterritorial lands when there is no government power over Mars. In other words, there is a lack of sovereignty. Property law is based on the

following basic premises like possession, occupancy, exclusive possession, and transferability of property. As far as the property law is concerned, acquisition of rights to previously unclaimed territories could be carried out on the basis of the principle of *res nullius* that stands for something having no owner. It was the principle used in the acquisition of territories and rights on Earth. The possibility of settling, resource extraction, and infrastructural development on Mars has led to discussions about property rights. The doctrines that govern property laws like first possession theory, labour theory of

property according to John Locke and bundle of rights approach can help to explore the property right issues concerning Martian lands. However, the uniqueness of Mars and the constraints posed by international space law raise doubts about legitimacy of such claims.

The major question of law addressed in this research study is: whether the doctrine of res nullius and the concepts of ownership, possession, and transfer of immovable property under Indian property law are applicable enough to recognize and confer any proprietary rights over land on Mars in absence of any terrestrial sovereignty that exercises jurisdiction over such land.

The present study attempts to examine the issue of ownership of land on Mars from the angle of Indian property laws where the concepts of possession, ownership, and transferability shall be taken into account in order to find out whether the legal doctrines are sufficient enough for addressing ownership claims over land of Mars or not. This paper attempts to investigate the ownership issue of land on Mars from the possibility of establishing the settlement extracting resources and developing infrastructure in mars.

This paper will consider the question of land ownership on Mars from a property law point of view and analyze the applicability of property laws, specifically res nullius, and whether or not current principles can be used to establish ownership in relation to land on Mars. The paper will also consider the requirement for a special legal regime for extraterrestrial property rights.

Research Problem

As exploration of the Red Planet continues to grow, the question arises whether ownership of land on Mars can be acquired via laws of property. Although the law of property provides for the acquisition of ownership through such means as possession, occupation, labor and transfer of title, the lack of any sovereign power on Mars makes it difficult to determine and enforce the said ownership. The concept of res

nullius and international space laws also pose an additional difficulty in resolving the problem.

Property Law Principles Applicable to Mars

1. Doctrine of Res Nullius

The law of res nullius involves property which has no owner and can be owned by whoever lays his hands on it first. In the past, this concept was used to support claims on unclaimed land. Since Mars may be viewed as a piece of unowned territory, one might say that ownership rights can be gained through settlement and development of such land.

2. First Possession Theory

According to this theory, ownership derives from the act of possessing a resource that is not previously owned by anyone. This theory proves useful in showing that the first settlers of Mars have the right of owning land by occupying it.

3. Locke's Labour Theory

The theory that was developed by John Locke states that ownership comes into being due to the mixing of personal labor with nature's possessions. The above theory, when applied to Mars, means that the settlers of Mars will become owners of their habitat and natural possessions because of their hard work there.

4. Bundle of Rights Theory

Property is not merely ownership but a collection of rights, including:

- Right to possess
- Right to use
- Right to exclude others
- Right to transfer property

A future Martian property regime may grant these rights without necessarily recognizing full sovereignty over territory.

Relevant Property Law Provisions

Transfer of Property Act, 1882

- Section 5 – Transfer of property.
- Section 8 – Operation of transfer.

- Section 54 – Sale of immovable property. Limitation Act, 1963

- Article 65 – Limitation period for suits relating to possession.
- Section 27 – Extinguishment of ownership rights after the expiry of the limitation period.

Although these provisions apply to terrestrial property, they demonstrate how legal systems recognize ownership, possession, and transfer of land.

Supreme Court Case Laws:

1. Rame Gowda v. M. Varadappa Naidu (2004) 1 SCC 769

The Supreme Court held that peaceful and settled possession deserves legal protection even against the true owner and that dispossession must occur through due process of law. The Court emphasized the significance of possession as a legally recognized interest in property.

Relevance to Mars:

The case illustrates that possession itself can create legally protected interests. Similarly, long-term occupation and control of Martian land may form the basis of future property rights.

2. Karnataka Board of Wakf v. Government of India (2004) 10 SCC 779

The Supreme Court explained the doctrine of adverse possession and held that possession must be open, continuous, exclusive, and hostile to establish a claim of ownership. Mere occupation is insufficient without effective control and intention to possess as an owner.

Relevance to Mars:

The case highlights the importance of actual possession and control in acquiring property rights. If ownership claims on Mars are ever recognized, courts and lawmakers may require similar standards of occupation and effective control.

I. Understanding Ownership under Indian Property Law

Ownership is the widest right which an individual can hold over his property. These rights include possession, use, enjoyment, disposal, and exclusion of the property by others. Even though the Transfer of Property Act, 1882 does not define ownership, the Indian courts have always considered ownership as a bundle of rights exercisable against the entire world.

In order to establish an ownership of any property in India, the following three essential conditions must be fulfilled:

1. A clearly identifiable property;
1. A legally recognizable title or source of ownership; and
2. A legal system capable of enforcing such rights.

In relation to the application of the said principle to the Martian land, the first requirement will be met as the land in Mars can be physically identified and occupied. The two remaining requirements are, however, problematic as there is no known legal entity that has the ability to grant ownership or exercise proprietary rights over lands found in Mars.

The crucial question now is whether there is ownership by virtue of possession and occupation alone.

II. The Doctrine of Res Nullius and Martian Land

The doctrine of *res nullius* refers to property that belongs to no one and may therefore be acquired by the first person who takes possession of it with the intention of ownership.

In the past, *res nullius* has been applicable to terra nullius, wildlife, abandoned property, and some natural resources. The reason behind this is that, in the absence of a lawful owner of something, the claim of the first occupier can be recognized legally.

In case of Mars, *res nullius* creates a very interesting precedent. Given the fact that there is no private ownership of any part of Mars, it can

be said that the first person who will occupy, develop, and exercise control on that particular area becomes its rightful owner.

According to the property laws of India, the doctrine of possession has always held an important place for determination of proprietary rights. When a person controls a land, constructs buildings upon it, uses the resources available and excludes all other people from it, he/she follows the requisites of the concept of occupation.

Yet, the doctrine of *res nullius* itself does not confer ownership. Ownership of property in India is usually recognized by the authorities of the law. Thus, while *res nullius* gives a justification to claim Mars, its applicability is uncertain to unoccupied territories, wild animals, abandoned property, and certain natural resources. The underlying rationale is that where no legal owner exists, the law may recognize the claim of the first occupier. A special case of *res nullius* can be found on Mars. In view of the fact that any part of Martian territory is currently unowned by a private individual, one can assume that whoever manages to develop and control a particular part of it should become its owner. Possession was an essential element in the establishment of proprietary rights according to Indian legal tradition. Should someone manage to take control over a piece of land, construct buildings and exclude other individuals from this land, this will be close to the requirements that used to be applied to the acquisition through occupation.

Nevertheless, the principle of *res nullius* does not necessarily ensure the emergence of the legal right to own something by itself. Ownership of any kind of property in India is normally recognized by the proper authorities.

III. Possession as a Basis of Ownership

Indian courts have repeatedly emphasized that possession is a significant legal concept. Possession is not merely physical control; it includes an intention to exercise dominion over property.

Two elements are necessary:

- **Corpus Possessionis** (physical control); and
- **Animus Possidendi** (intention to possess as owner).

By physically possessing the land and having the intention of exercising exclusive control, such a person would satisfy the two prerequisites. The Indian legal system frequently gives protection to possession even against people claiming ownership but have no valid proof of title. As a result, the Martian settlers, if they can prove that they have been in physical possession of the land, have a better claim compared to those coming after them.

However, the issue of whether ownership could be established remains.

Often, in Indian law, possession is protected from people who claim ownership but lack proof of ownership. For that reason, if Mars settlers acquire possession of land, they will have a better case over people who later try to claim possession of the same land.

However, possession alone does not solve the issue of whether ownership is legal and transferable in India.

IV. Relevance of the Transfer of Property Act, 1882

The Transfer of Property Act, 1882 governs the transfer of property between living persons.

Several provisions become relevant:

Section 5 – Transfer of Property

Section 5 defines transfer of property as an act by which a living person conveys property to another.

For Martian land, a difficulty arises because ownership must first exist before transfer can occur. If no legally recognized ownership is established, any purported sale or transfer of Martian land would lack a valid title.

Section 8 – Operation of Transfer

In section 8, "a transfer conveys all interests that may be passed by the transferor." The

interpretation of this section reveals the rule that “nemo dat quod non habet” – no one gives what he does not have. In other words, in case a Martian colonist does not have any legal title, he will not be able to transfer property.

Section 54 – Sale of Immovable Property

A sale of immovable property is supposed to be in compliance with section 54, which calls for ownership and proper legal formalities.

Considering that Mars lacks any registration system, this could be rather difficult to achieve in that case.

V. The Question of Law

The main legal issue that is at stake can be phrased as:

Can a person who takes initial possession and controls unclaimed land on Mars obtain lawful ownership through Indian property laws by virtue of *res nullius* and possession, in spite of there being no sovereign entity to acknowledge his rights

This question can be divided into three subsidiary issues:

1. Can Martian land be classified as ownerless property (*res nullius*)?
2. Can possession alone create ownership in the absence of governmental recognition?
3. Can proprietary rights in Martian land be transferred, inherited, or enforced under existing Indian property law?

The answer depends on the extent to which Indian courts are willing to recognize possession as an independent source of title in extraordinary circumstances.

VI. Landmark Judicial Decisions

1. Nair Service Society Ltd. v. K.C. Alexander

In this matter, the court ruled that possession, in and of itself, is a substantial right, and that a person who is lawfully in possession may take action to prevent his possession from being

disturbed even in the absence of absolute ownership.

The court said that possession is protected by the law since the stability of property relations is required in a socially organized society.

Relation to Property on Mars:

This case judgment helps prove the claim that the first occupier of the land on Mars would be able to establish legal rights based on possession prior to gaining any official title.

2.State of Andhra Pradesh v. Star Bone Mill & Fertiliser Co. (2013)

Doctrine of Res Nullius:The Supreme Court explained the principle of *res nullius* and noted that any property without a private owner can be regulated or claimed by the State unless a legal right is proved to exist on part of another entity. In this particular case, the Court emphasizes the fact that property rights to previously ownerless property are subject to proof through legal means.

Relevance to Martian Land:

The relevance of this case to the topic is derived from the fact that Mars itself may be regarded as *res nullius*. This example confirms the theory stating that merely occupying Mars will not result in property rights to this area. Similar to the situation described in the case, where *res nullius* needs to go through a legal process to become an owned property, Martian land should go through the same procedure.

VII. Critical Analysis

Ownership, under Indian property law, has a clear relationship with possession and control. *Res nullius*, which explains how previously unowned property can be acquired by an owner, serves as the theory behind this principle. Court decisions have further clarified that possession is a worthwhile interest that deserves protection.

The assumption made in Indian law is that there is a sovereign power that has the capacity to record and enforce property rights. This being the case, ownership of Martian land cannot be

determined as long as there is no sovereign power over the land. In the case where the first person claims possession using the doctrine of res nullius, it will be necessary for him to institute some form of legal system that recognizes ownership of extraterrestrial land.

From this point of view, it can be argued that possession will be the strongest basis for claiming the ownership of Martian land.

Conclusion

It is pertinent to mention here that the question regarding ownership of lands on Mars raises several problems in relation to application of conventional property law principles in the case at hand. As per Indian property law, ownership has close connections with possession, control and recognition. Res nullius doctrine provides support to the proposition that any property that does not have an owner can be acquired by one through first possession. Hence, this doctrine becomes a very convincing theoretical foundation of Martian lands.

The judicial decisions in cases like Nair Service Society Ltd. v. K.C. Alexander and Karnataka Board of Wakf v. Government of India make it clear that possession plays a major role in establishing proprietorship interests. Thus, a man who has first occupied and controlled the Martian lands can stake claim to having a superior possessory interest in those lands.

But, apart from possession, there is another requirement of ownership which has to be met. Indian property law requires that any claim to possession must be coupled with legal recognition, certainty of title and authority that could enforce those rights. This is something that is missing in the case of Mars as no legal framework exists there is the absence of such a framework for Mars, ownership claims remain legally uncertain.

Consequently, even if the doctrines of res nullius and first possession can offer a strong justification for claims on Martian soil, full ownership will not be convincingly established by the present system of Indian property law. It

will come down to developing a system of property law that would apply beyond Earth.

ENDNOTES

- 1 https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1115?utm_source
- 3 https://avalon.law.yale.edu/subject_menus/blackstone.asp
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