

Cadastral and Land registry in the Slovak Republic – strengths and weaknesses

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Introduction

- Right to own things is enshrined in Constitution and Basic Charter of Rights and Freedom
- Land register as the registration of real estate and rights to them registered serves to demonstrate ownership rights
- Activity in the field of cadastre is carried out by administrative authority
- Cadastre is complicated, expensive and extensive work creating for a long time
- Negative consequences of its historical development
- Cadastre seeks to respond to the current modernization and digitalization of the society



Introduction

- Cadastre and Land register in SR is one information system managed by state authority
- It consist of written information and map information, statement, description and geometric expression of real estate
- Below will use only the word „CADASTRE“ for both systems

Unified system

- Real estate cadastre is a unified information system containing data about real estate and rights regarding the real estate
- It allows comfortable provision of comprehensive information about certain properties including legal relations to it
- The operation of a unified information system is cheaper than running two separate specific information systems
- Cadastral documentation is public – provides information to all persons without proving legal interest
- Public of cadastral documentation is based on the formal publicity and serves to protect property rights
- Everyone has the right to make notes, extracts, sketches from it

History

- Judexkurial Conference in 1861 set rules for creation, management and handling with land book
- Austro-Hungarian Empire Act. 222/1855 of 15/12/1855 about establishment and management of land registers
- Public books were kept by state authorities and were carried out under the public supervision
- Before a year 1951 ownership of real estate was acquired by registration in land book, writing was carried out by land court and has constitutive character
- Civil Code No. 141/1950 Coll. – 01.01.1951 – writing into land book wasn't condition of transfer of ownership, declaratory character, ownership was transferred by conclusion of the contract – consensual principle
- Widespread and long-standing discrepancy between actual legal status and status registered in the land book
- Land books were kept by court until 1964

History

- Act. No. 22/1964 Coll. on registration of real estate stopped on 01.04.1964 the implementation to the land book
- Land books got into the state notary's deposit
- Land book and railway book si part of cadastral documentation and is archives with permanent documentary value

The main principles of land book in the past

- The principle of intabulation – ownership of real estate was acquired by registration in land book
- The principle of transparency
- The principle of freedom
- The principle of legality
- The principle of trust in land book
- The principle of priority
- The principle of public policy
- The principle of compliance of land register with the land cadastre

The main principles of cadastre now

- **The principle of registration – intabulation** – property and other rights in rem have to be registered in the cadastre
- **The principle of public – formal publicity** – everyone is entitled to inspect the cadastral documentation and make sketches from it
- **The principle of credibility – material truth** – cadastral data are credible and binding unless the contrary is proved
- **The principle of freedom** – the proceeding of proposal for application shall be initiated only upon proposal of the party
- **The principle of legality** – cadastre is required to examine conditions for the possibility and validity of land registration
- **The principle of priority** – rights regarding the same property shall be entered in the order in which the contracts for registration are delivered
- **The principle of speciality** – it serves to ensure certainty, clarity and transparency of all recorded data

Legislation

- Act. No. 460/1992 Coll. Constitution of the Slovak republic
- Act. No. 265/1992 Coll. on registration of ownership and other rights in rem
- Act. No 266/1992 Coll. on Cadastre of the Slovak republic
- 01.01.1993 entered into force, registration by notaries were replaced by deciding of the cadastral authorities
- Act. No. 162/1995 Coll. on the land registry and the registration of ownership and other rights to cadastre
- Decree of GCCA No. 461/2009 Coll. implementing Cadastral Act
- Act. No. 71/1967 Coll. on Administrative Proceedings
- Act. No. 162/2015 Coll. Administrative Procedure Act
- Act. No. 153/2001 Coll. on Prosecution
- Other laws – Commercial Code, Act on Bankruptcy and restructuring,...

Purpose of use of the cadastre

- Purpose of law – to protect rights and ownership
- Tax purposes – to determine amount of the fee
- The valuation of real estate, particularly land
- The protection of agricultural land and forest land
- The creation and protection of the environment
- The protection of mineral resources
- The protection of national cultural heritage and other cultural monuments
- protected areas and natural formations and other building systems property

Cadastral authorities in Slovakia before 01.10.2013

- Geodesy, cartography and cadastre Authority of the Slovak republic – central state administration
- LOCAL CADASTRAL OFFICES
- 8 Cadastral offices seated in regional capitals – state administration in the territory of region and at the second level
- 72 Cadastral administrations – state administration within the territorial jurisdiction of the district in the first instance
- Local cadastral offices were personally and financially connected to the GCCA SR

Cadastral authorities in Slovakia after 01.10.2013

- Act. No. 180/2013 Coll. on local state administration
- Scope of cadastre passed to district authorities, cadastral departments which aren't directly under control of GCCA SR
- LOCAL CADASTRAL OFFICES
- GCCA SR – central state administration , metodically manages and directs the performance of state administration in the field of cadastre, performs cadastral inspection, state supervision of management, updating and renewal of the cadastre, preparing law and ensures international cooperation
- 8 District Offices in regional capitals – second stage of state administration
- 72 District Offices, land registry department – first stage of state administration, it decides in the administrative proceedings, registration of the rights, manages and updates the cadastre, checks geodetic and cartographic activities, manages land and railway book, provides information from the land
- Local cadastral offices are personally and financially connected to the Ministry of Interior SR which also provides material support

Decision on proposals of registration

- Employee of Ministry of Interior SR who has university education in the field of law or geodesy and special professional qualification
- Qualification includes theoretical, practical knowledge and experience and is decided by 5 member committee of GCCA SR who issue a decision
- Employee in civil service vs. Judge/state notary
- Possibility to consult technical matters with employee working for the Technical department

Period for decision

- 30 days
- 20 days – contract made by notary or attorney at law
- 15 days on application plus extra fee
- Shorter period for decision than period for court decision

Fees

- Act. No. 145/1995 Coll. on Administrative fee
- 66 EUR – decision within 30 days
- 266 EUR – decision within 15 days
- 33 EUR/133 EUR – electronic filling made by notary (or attorney at law)
- Reduced fee of 15 EUR – through cadastre portal „www.katasterportal.sk“ can be given notice of the intended proposal

Electronic or paper form of proposal

- 01.09.2009 was amended Cadastral Act
- Proposals can be in electronic form and all enclosures must be e-filing electronically
- Reduced administrative fee

Protection of property

- Act. No. 460/1992 Coll. Constitution of the SR
- Act. No. 162/2015 Coll. on Administrative Procedure – illegal decision issued by the administrative authority can be achieved through an action
- Act. No. 160/2015 Coll. on Civil litigation codex – 01.07.2016 - indirectly amended Cadastral Act – appeals are decided by GCCA SR
- Decision can be reviewed by a court so the legality of the decision of administrative authority is still ensured
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Remedies against the decision of the proposal

- The parties can't appeal against decision by which was authorized transfer of property – in order to speed up proceedings a greater legal certainty
- Retrial and review the decision beyond an appeal (an extraordinary remedies in accordance with Act on Administrative Proceedings) cannot be used
- Protest of prosecutor can be filed against the decision in accordance with Act on Prosecution

Disadvantages

- Great fragmentation of land ownership,
- Incompleteness,
- Imperfection of cadastral registration,
- Unsubstantiated ownership relationships,
- Too many plot owners of one property,
- Negligible area, ...
- It is result of historical development
- Object of ownership can be tiny area and negligible value of the property
- Fragmentation of land ownership makes it difficult for land registration, decision making and administrative bodies are source of neighbouring and other ownership disputes

Development in Slovak republic

- Technical trends - automation system, scanning, digitizing, problem solving
- 01.02.2004 – „www.katasterportal.sk“ – information from cadastre is accesible on the Internet, free of charge, in accordance with law
- Free public portals now – www.katasterportal.sk, www.cica.vugk.sk or indirectly via ESKN (Electronic land registry services) – special service called „Mapka“
- Information about property, owners, construction or relationship
- Information/deed from portal is informative
- Public document has to be issued by authority, marked by official stamp and administrative fee has to be paid

Conclusion

- GCCA SR provides summary data about the property or owners throughout the territory of the SR upon request
- Individual district authorities provide these data only in their administration area
- Legal and geometric condition recorded in the cadastral documentation should be considered as complete, credible and accurate
- Everyone who uses these data won't have their rights violated
- data which credibility is in question, cannot be used and owners can agree and draw up a settlement agreement or they can go to court with their claim



Slovak Presidency of the Council
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Thank you for your attention

