Ownership Protection in Spain
Problems of the Cadastral System

Hanover, 11 October 2012
Pedro J. Ortiz Toro
Ownership Protection in Spain – Problems of the Cadastral System

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Spain in Figures
Spain in Figures

506.000 square km 47.000.000 inhabitants

The Spanish nation is composed in the form of State of Autonomies

It is one of the most decentralized countries in Europe, along with Switzerland, Germany and Belgium; for example, all Autonomous Communities have their own elected parliaments, governments, public administrations, budgets, and resources

Therefore, health and education systems among others are managed regionally, besides, the Basque Country and Navarre also manage their own public finances based on foral provisions.
Provinces and municipalities
Autonomous communities are subdivided into provinces, which served as their territorial building blocks. In turn, provinces are integrated by municipalities.

The existence of both the provinces and the municipalities is guaranteed and protected by the constitution, not necessarily by the Statutes of Autonomy themselves.

Municipalities are granted autonomy to manage their internal affairs, and provinces are the territorial divisions designed to carry out the activities of the State.
Ownership Protection in Spain – Problems of the Cadastral System

Spain in Figures

Spanish cadastre information (excluding Basque Country and Navarra)

Parcels (buildings not included)

<table>
<thead>
<tr>
<th></th>
<th>Number of Municipalities</th>
<th>Surface (Has)</th>
<th>Number of Parcels</th>
<th>Cadastral Value (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural</td>
<td>7,592</td>
<td>47,560,593,29</td>
<td>39,957,113</td>
<td>43,000,121,835,11</td>
</tr>
<tr>
<td>Urban</td>
<td>1,073,858,08</td>
<td>13,353,000</td>
<td>13,353,000</td>
<td>1,000,038,858,879</td>
</tr>
</tbody>
</table>

>45 millions of parcels \(\rightarrow\) Cadastral value \(\approx\) 0.5 market value \(\Rightarrow\) **88,000 million €**

8% GDP* Nacional

*GDP: Gross Domestic Product

Source: Área de Estadística. Dirección General del Catastro. Ministerio de Economía y Hacienda
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Cadastral System ↔ Land & Real Estate Property Management

Municipality

Notary

Cadastre

Land Registry
The law, in Spain, gives exclusive competence to the Municipalities to regulate Land Planning and every land property alteration must have permission. Not legal permission but administrative Provider & Beneficiary of Cadastre. Civil servant not Land/Geodetic Surveyor → Usually Architect.
The law, in Spain, gives exclusive competence to notaries to draw up sales contracts for real estate and monitor the legal certainty of transactions: neither the buyer nor the seller should commit lightly.

**Publicly Appointed Official NOT Civil Servant**

**BAC+5+State Exam (law)**

The Notary gives advice in authenticating their final agreement, furthermore will give it probative value and enforceability in addition to the legal certainty corresponding to the importance of the transaction.

*Cadastral reference shall be defined at new tittle deeds*

If the property has been divided or segregated, Notary may send legal and graphic information to Cadastre → **Proy. Ramon Llull**
Gestor de expedientes de alteración catastral Ramón Llull 1.0.368

Editar expediente  Nuevo expediente

Número Expediente: 03000000020110000090  Solicitante: Solicitante de muestra
Tipo: Sin Especificar  Descripción: Expediente de muestra

Expediente
- Operaciones
  - 0000 (Agregación)
  - 0001 (Segregación)
  - 0002 (Segregación)
- Técnicos asignados
  - 0000AGRRFM
  - 0000AGRRSGR
  - 0000AGRRFM

Eliga una opción:
- Descargar finca matriz
- Permite finca agregada
- Eliminar esta operación
- Generar declaración catastral

Resumen de la Operación

Geometría  Información catastral  Diagnóstico  Plano en papel

A la seleccionada

Parceas
- 0000AGRRFM
- 0000AGRRSGR
- 0000AGRR

WMS's
- WMS PNOA
- WMS Catastro

Coordenadas:
X: 717266,36  Y: 4254276,41  Escala: 543,34

Guardar expediente  Guardar y cerrar expediente  Salir
The Real Estate Cadastre in Spain is an administrative registry that depends on the Ministry of Economy and Finance.

- This registry describes the urban and rural properties and also real estate with special features.
- The cadastral information include physical, economical and legal characteristics, like:
  - Location.
  - Cadastral identification.
  - Area.
  - Use.
  - Different kind of crops.
  - Quality of the buildings.
  - Cartographic representation.
  - Cadastral value and cadastral owner.

*Civil servant not Land/Geodetic Surveyor*

3000+ employees → 25 land surveyors

Fiscal/Tax/Valuation Purpose

Compulsory by citizen or municipality
REFERENCIA CATASTRAL DEL INMUEBLE
31201UF5432S0001DH

DATOS DEL INMUEBLE

LOCALIZACIÓN
CL SOL-FARO EL 1º
29649 MIJAS [MALAGA]

USO/USO PRINCIPAL
Residencial
AÑO CONSTRUCIÓN
1988

COEFICIENTE DE REPARTICION
100,000000
SUPERFICE CONSTRUIDA (m²)
112

VALOR RUBÉO (€)
93,982,42
VALOR CONSTRUCCIÓN (€)
29,159,83
VALOR CATASTRAL (€)
123,142,25
AÑO VALOR
2011

DATOS DE TITULARIDAD

APellidos y Nombre(s) Social(inal)
WILHELM

NIF X210932Z

Domicilio Fiscal
UR EL FARO PARC 1º
29650 MIJAS [MALAGA]

Derecho
100.00% de Propiedad

DATOS DE LA FINCA A LA QUE PERTENECE EL INMUEBLE

CL SOL-FARO EL 1º
MIJAS [MALAGA]

SUPERFICE CONSTRUIDA (m²)
112
SUPERFICE RUBÉO (m²)
602
TIPO DE FINCA
Parcele con un único inmueble

Este certificado refleja los datos incorporados a la Base de Datos Nacional del Catastro. Solo podrá utilizarse para el ejercicio de las competencias del solicitante.

Lunes, 10 de Enero de 2011
Este certificado puede ser verificado en:
http://www.sedecatastro.gob.es
Código Certificación 2254666 18329 66
<table>
<thead>
<tr>
<th>Uso</th>
<th>Escalera</th>
<th>Planta</th>
<th>Puerta</th>
<th>Superficie (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>VIVIENDA</td>
<td>1</td>
<td>00</td>
<td>02</td>
<td>23</td>
</tr>
<tr>
<td>VIVIENDA</td>
<td>1</td>
<td>00</td>
<td>03</td>
<td>78</td>
</tr>
<tr>
<td>OTROS USOS</td>
<td>1</td>
<td>00</td>
<td>04</td>
<td>4</td>
</tr>
<tr>
<td>ELEMENTOS COMUNES</td>
<td>1</td>
<td>00</td>
<td>07</td>
<td>7</td>
</tr>
</tbody>
</table>
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Each Registry is managed by a Registrar, who is a public official and also a legal professional. The mission of the Registrar is to control the legality of the documents authorized by the Notaries, issued by the Magistrates and by the administrative authorities.

Only if the document is completely valid can the right thus acquired be registered and guaranteed. Each registrar is responsible for ensuring the registries are duly vested, maintaining the highest level of technology and reporting on their role and the content of their entries to any interested party.

Record of Rights/Mortgage publicity purposes
Not compulsory only for mortgage registration
1087 billions € as mortgage capital registered
Private office managed by Registry Officer
Publicly Appointed Official NOT Civil Servant
BAC+5+State Exam (law)
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MAP of the System

Land Registry

Products

**Simple note**: is a succinct extract of the entry’s contents concerning the property. It identifies the property, the owner or owners of the registered rights pertaining to the property, and the breadth, nature and limitations of those rights. It also states any prohibitions or restrictions binding the registered owners or rights. A simple note is for your information only and is not used as court evidence.

**Graphic note**: is an orthophoto, an aerial photograph of the property. It is delivered usually with the simple note.

**Certification**: is a wider extract of the entries concerning the property or right(s) and so it can fill several pages. It is always signed by the land register responsible for the information. It is used as evidence before the courts. When delivered through the Internet it is digitally signed.
NOTA SIMPLE INFORMATIVA

Para información de consumidores se hace constar que la manifestación de los libros por esta Nota Simple Informativa se hace con los efectos que expresa el art. 332 de Reglamento Hipotecario, ya que sólo la Certificación acredita, en perjuicio de tercero, la libertad o gravamen de los bienes inmuebles, según dispone el art. 225 de la Ley Hipotecaria.

REGISTRO DE LA PROPIEDAD DE MARBELLA NÚMERO TRES

Lugar y Fecha de Emisión: Marbella a 23 de Febrero
Solicitante: 

DESCRIPCIÓN DE LA FINCA

FINCA DE MARBELLA (Sección 03) N°: 

Número identificativo IDUFIR: 290 8
Naturaleza URBANA: Casa
Localización: CALLE 7

Ref. Catastral: 9
Z Polígono: 0 Parcela: 0
Superficies: Construida: cuatrocientos setenta metros cuadrados, Terreno: siete mil quinientos sesenta y cuatro metros cuadrados,

Linderos:
Derecha, ENTRANDO U OESTE PARCELA CATASTRAL 9 S, QUE ES LA FINCA 1 DEL CAMINO DE ISTAN Y CON LA FINCA NUMERO DEL CAMINO DE ISTAN
Izquierda, ENTRANDO O ESTE, PARCELA CATASTRAL 9 S FINCA DEL MISMO CAMINO DE ISTAN
Fondo, O SUR, CON LA MISMA PARCELA CATASTRAL 9 S FINCA DEL CAMINO DE ISTAN

DESCRIPCIÓN: CASA EN LA HUERTA DE LOS , PARTIDO DE , CAMINO DE ISTAN,

TITULARIDADES

NOMBRE TITULAR N.I.F. TOMO LIBRO FOLIO ALTA
BASE GRÁFICA REGISTRAL

Registro de la Propiedad: 29041 MARBELLA 3
Municipio: 29060 MARBELLA
Finca Registral: 020 00
Superficie de la base gráfica: 0,7123 m² - 2.712,52
Longitud del perímetro: 430,74 m
Escala: 1:1.000 Fecha: 23/02/2011
Proyección: UTM Huso: 30 Datum: ED-50
Raster: Ayuntamiento de Marbella, 2004-2006

Ref. Catastral: 9
Polígono: 0 Parcela: 0

Linderos:
Derecha, entrando u oeste parcela catastral 9 S, que es la finca 1 del camino de istan y con la finca número del camino de istan
Izquierda, entrando o este, parcela catastral 4 S finca del mismo camino de istan
Fondo, o sur, con la misma parcela catastral 9 S finca del camino de istan
Descripción: casa en la huerta de los

RAMÓN OROZCO RODRÍGUEZ, REGISTRADOR DE LA PROPIEDAD DE MARBELLA NUMERO 3, TRIBUNAL SUPERIOR DE JUSTICIA DE ANDALUCÍA

DICTÁMEN relativo a la base gráfica registral de la Finca 00, en término municipal de Marbella.

La representación gráfica del suelo de la finca registral de referencia es coincidente en cuanto a su situación, superficie y linderos con la que se presenta en el documento presentado y por ello ha sido incorporada al archivo de bases gráficas registrales. Propiedad de MARBELLA N° 3.

Marbella, a 23 de febrero de 2011.

El Registrador,
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Key Remarks
Who, What, How is the Spanish Cadastre...

The Spanish General Directorate for Cadastre (SGDC) is responsible for the creation, maintenance and diffusion of these cadastral data either directly or in collaboration with local authorities and other public entities.

The Spanish Cadastre is principally a fiscal Cadastre, whose databases of cadastral values of rural and urban real estate are the basis for the calculation of real estate tax and other local, regional and national taxes.

But this is not its only purpose: it is also a territorial database allowing the location and identification of cadastral parcels and the assignment of the cadastral reference, as well as the supply of graphic and literal information to users.
Key Remarks

Data in the Spanish Cadastre and Land Registry...

The Spanish Cadaster is NOT a measured Cadastre

The data access to Cadastre by different sources:

- Aerial mapping (estimation of boundaries) → Companies by public tender
- Digitalized old maps → Cadaster employees
- Land Planning documents (Parcelation) → Municipalities
- Parcel delimitation → Land Surveyors
- “Legal” graphical documents → Notaries and Land Registrars
- Hand made sketches → anyone

The data access to Land Registry,

- authorized by the Notaries
- issued by the Magistrates
- issued by the administrative authorities.
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Key Remarks

Weakness and Advantages of The system...

Weakness:

- Civil code allows several types for ownership transfer
  - “Shake hands” (verbal agreement)
  - Private contract (amongst private persons)
  - Public deeds (notary)
  - Judicial sentence (in court)
  - Administrative issue (expropriation)

May be registered in Land Registry
Not compulsory

- MultiSource for graphic and literal description of parcels
  - Cadastral maps
  - Land Registry (orthophoto maps)
  - Municipality land planning (parcelation)
  - Public deeds (plan attached)
  - Judicial sentence (plan attached)
  - Administrative issue (expropriation) → Project

There is no “Land Delimitation” Register which would take care of Boundaries

- Boundary and Ownership disputes in court

Time, Money, Blocked Courts
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Key Remarks

Weakness and Advantages of The system...

Advantage

Satisfaction of the citizens with the system...

............Totally satisfied until
Ownership Protection in Spain – Problems of the Cadastral System

Thank You for the Attention

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http://historiasdeungeometra.wordpress.com/