THE ECONOMIC AND JURIDICAL ROLE OF LAND REGISTRATION

A GENERAL ASSESSMENT

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for

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WHAT IS ELRA?

• ELRA stands for European Land Registry Association

• AISBL created in 2005

• Objective: to support the development and understanding of the role of land registration in real property and capital markets in Europe

• Principle of respect towards the different EU legal systems

• Since 2005 activities co-funded by DG Justice

• Recognition by the EU institutions as the interlocutor representing land registries in Europe
• The economic role of land registration
  – Hernando De Soto –“The Mistery of capital”
    • Without an integrated formal property system, a modern market economy is inconceivable.

– Registration creates a mirror to the asset itself
  • It becomes a marketable object
  • Possible to use as a collateral
  • Creates right “Erga omnes” (sometimes)
The role of cadastre and land registration

– Cadastre
  • Collect geo spatial data
  • In order to inform the authorities
    – Basis for collecting taxes
    – Information for Policy making
  • Administrative role

– Land registration
  • Private law
  • Deliver legal security to citizen on real estate

– Both use the same data – but different goal
• The traditional systems of land registration
  – Deed system
    – The deed is archived and indexed
    – Very little guarantees by the state
    – Avoiding double sales
    – Priority rules for mortgages
    – The need to go back to the root title for security
    – Inform third parties
  – Title system (Torrens system)
    – The act of registration causes legal consequences
    – The "Mirror" and "Curtain" system
• Pro’s and contra’s of each system
  – There is no best system
  – The deed system
    • Delivers poor guarantee
    • Is cheap and does not need highly qualified personal
    • Proof of title only after investigations
    • Problems with archiving paper
  – The title system
    • Gives proof of title
    • Thorough investigation before registration
    • Active role of Registrar and qualified personal
    • Expensive
• New challenges

  – internationalisation of the market
  • Cross border conveyancing
  • Demand for better information
    – More than most land registries actually deliver
    – Guaranteed as well as non-guaranteed
    – Geo-spatial
    – Always Up to date
• The organisation of land registries
  – New technologies
    • Blockchain
    • Artificial intelligence
    • Big data
    • privacy
  – Cost cutting initiatives
    • Privatisation
    • Upcoming sociological changes
• Roles for the surveyor – in a changing world

— Nowadays everybody can measure

— But not everybody can give guarantees on the result
  • The role of the chartered surveyor
    — A preferential partner in the process of providing legal security
    — A beakon of thrust to the citizen
Thank you
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