

METHODOLOGICAL ROLE OF THE REGISTER OF LAND RIGHTS

*PhD stud. CORNELIA OIMU, assoc. prof. PhD ION BOTNARENCO
Tehnicul University of Moldova, Chi in u, Republic of Moldova*

ABSTRACT: *The most important right over the land is the property. But the right to property may be limited by legal restrictions and may be subject to responsibilities.*

So, the need for protection spreads not only on the right to property but also on: interests, restrictions, responsibilities, bonds, etc. The object of registration and protection becomes wider from a social, economic, ecological point of view.

The registration process belongs to the particularities of the evolution (development) of land law within the development of land relations, of the land reform carried out. In order to create rational conditions in the use of land resources in the Republic of Moldova, essential changes are needed in the content of rights over land, the development of forms of labor organization, respectively their protection.

Keywords: *Register of rights, registration of rights, registration process, protection of law, cadastral registration.*

1. Introduction

The cadastral process, through its content to identify the location of land law in nature, to answer the question "where is the land law in nature, in space", proved to be the current most effective (main) mechanism in the protection of the right over the land.

In the content of the cadastral process one of the basic elements is the "registration of rights over land". Namely, by registering the rights over the land as a component part of the cadastral process, the main problem (the main purpose, initially) of the fundamental cadastre – the protection of the right over the land – the protection of the right over the land – is solved.

The role of the 'registration process' returns to its objectively necessary situation of protection of the right. Practice has shown that, at the present stage, registration is the most credible form of protection of the right to the land. This is what most countries have come to. The protection of the right becomes a guarantee of social and economic development.

A problem, also actual (social, economic, ecological), of the cadastral process become the cadastres detailed and respectively the registers of these cadastres, which in reality represent a development of the fundamental cadastre.

One of the main purposes of detailed registers is the protection of scarce natural resources. Based on the information accumulated by the cadastral register, the most efficient methods of protection of natural resources can be developed in time.

The detailed knowledge of the registration process, the correct application of the registration methodology allows us to solve a number of social, economic, ecological problems.

2. The role of the Register of rights over land (register of fundamental cadastre)

The need to protect land law arises, simultaneously with its appearance as a social category. Thus, we can find that the registration of the rights over the land, in its capacity as an economic social process, appears as a component part of a wider process – of the cadastre as a multifunctional integrity process.

From the analysis of the world practice, regarding the protection of the right to the land, we mention a positive impact, in this area, of the process of introducing it to the population. Axiomatically, the population informed of the existence of rights over land owned by different subjects, maximally respects these rights.

It is on this axiomatic principle that the conception (paradigm) of the protection of the right over land is based. We find this paradigm in respecting land restrictions, fulfilling bonds, protecting interests, respecting priorities. In all the above, the element of computerization persists. For these reasons, the quality of the cadastral information, included in the content of the cadastral register of land rights, acquires a principled content.

The economic aspect of the land cadastral registration process is widely found in the practice of economic development of the Republic of Moldova, namely, in: fiscal policy; bank crediting; subsidization, etc.

Within the framework of bank lending policy, the cadastral register of land rights is the basic mechanism (method) in securing the loan granted on a mortgage basis [1]. Both the practice of the Republic of Moldova and the world one does not know a more credible mechanism of protection of rights (interests) in the bank (mortgage) lending policy than the application of the cadastral register.

As an example, in the process of implementing the bank lending policy, the capacity to protect the cadastral register is oriented (spreads) more towards the protection of the interests of the parties involved in the bank lending contract. The role of the cadastral register in this case is to protect the interest of the debtor through the guarantee of the property right to receive the requested credit, and of the creditor to ensure (guarantee) the return of the loan and the percentage share.

In the fiscal policy, the cadastral register ensures the observance of the public interest by collecting taxes and correctness (paying tax rates) between taxpayers.

The need to protect rights, bonds, interests can also be found in the implementation of the subsidy policy. The interest of the landowner is to have free access to subsidies. The public interest is that the subsidies are used in accordance with the subsidy policy, effectively. The public role of the cadastral register is to ensure that the control over the correctness and effectiveness of the subsidies granted is carried out.

The ecological aspect of the cadastral registration process is an evolution of social

needs. The issue of the protection and sustainable use of scarce natural resources is recognised by the whole of the world's society, regularly discussed in UN committees. It refers to the imbalance between the capacity of limited natural resources (agricultural land, soil, forests, water basin, air) and the increase in the population of the globe. So, another content of rights, bonds, restrictions, interests is found in the policy of sustainable use and protection of limited natural resources. It is only through knowledge of the concrete situation regarding the land sector that the land owner and the quality of the limited natural resource in use become possible to plan concrete sustainable (balanced) use measures.

The cadastral register may also be applied for the purpose of restricting land use in different ecological areas.

The protection of the rights of consumers of food products has a global content both social and ecological and results from the major capacity of producers to intervene in the process of land work, cultivation of plants. The practice of free trade of the E.U. has demonstrated the dimensions of this problem by arguing the need to monitor the quality of food products on sale.

The cadastral register of land rights also proved to be the most efficient mechanism (method) of control (monitoring) of the quality of food agricultural production. Through the mechanism of the cadastral register of land rights, it becomes real (possible) to identify the methodologies applied for plant protection, compliance with norms, restrictions, bonds, etc. Therefore, in order to exclude cases of marketing of prohibited products, it is necessary to apply the cadastral register.

The guarantee that the agricultural production, in the process of plant cultivation, complies with the established norms, is ensured by the cadastral number assigned to the right over the registered land. The traceability act based on the cadastral number includes the information necessary to protect the interests of consumers of agricultural products.

The inclusion of the cadastral number as an address in the process of land use and marketing of production (traceability act, production roadmap) was recognized by the

Declaration adopted at the First Congress of Cadastre.

Economic market relations, in this case the "land market" is the main mechanism of social and economic development. The protection of the right to the land is the guarantee of the land market.

The cadastral register of land rights with the main purpose and need for protection, becomes an important pillar in the social and economic development of the country.

The land market, the protection of the right over the land, the register of rights over land – this chain link is at the basis (foundation) of the social and economic development of the country. The measures to protect the right over the land will be effective only knowing the ways of threatening the right.

In the development, the market (land market), the protection of the right over the land, the cadastral register of land rights in each country are at a different level. After Williamson [2], the land market will be at an appropriate (expected) level only if "the level of protection of the right, the register of rights over land, other components will have an adequate content. Only by simply cadastral registration of land rights we will not implement a modern market, we will not achieve the established goal of protecting the right over the land.

Practice demonstrates that the purpose of the cadastre to protect the right over the land can only be achieved within the framework of an adequate cadastral registration system."

3. Methodology of land rights protection

The analysis of the historical development of the cadastral process viewed through the prism of the main purpose, the protection of the right over the land, highlights two important stages:

- *identification in nature of the limits of the location of the right over the land by cadastral measurements and visualization in order to protect them;*
- *application of the cadastral register (cadastral registration) for the purpose of accumulation (storage), analysis,*

dissemination of information about the rights over the lands identified in nature through terrestrial measurements and visualized for their protection.

The identification in nature (spatial) of the right over the land represents the main mechanism (method) of protection at the initial stage.

Cadastral (terrestrial) measurements represent the main methodology of identification (determination) fixedness argued in nature by which the right over the land, the limits of its spread become visible, recognized by other subjects. The visualization of the limits of the right over the land through different signs as a protection mechanism, has had a wide, diversified spread, in different countries, for a long time.

But practice has shown that objects intended for visualization, over time, lose their ability to identify the location of the right in nature. The reasons are different, both natural and artificial. Only a description of the location of objects intended for viewing, accompanied by terrestrial measurements, can save the situation, in the process of establishing (restoring) the rights.

The preservation, analysis and dissemination of cadastral information about the location of the land law in nature proved from practice to be a more credible mechanism (method) than a simple visualization. The accumulation, storage, analysis, dissemination of information about land law becomes the main function of the cadastral register in the cadastral process.

The application of the cadastral register (cadastral registration) for the purpose of accumulation (storage), analysis, dissemination of information about the rights over the lands identified in kind through terrestrial measurements and visualized for their protection purposes may be considered a next stage of the protection of the right over the land.

For these reasons, the Cadastral Register has become an important part of the cadastral process in its main function of protecting the rights over land.

The right over the land as a social category has undergone a wide, (evolution) change in the process of historical development.

The description of all rights, bonds, restrictions, priorities, interests can only be carried out in textual form.

The description of the location in space of the law, bonds, restrictions, priorities, interests become increasingly necessary in the process of social and economic development.

The evolution of the right over the land further formulates requirements for the identification of it (of the right) in nature, for its spatial description. The protection of law in new social and economic conditions again becomes a problem with cadastral measurements.

First, the land, as an object of the right, more and more often manifests itself as a compound object (land, construction, installations, arrangements). More and more often, the answer to the question "where" is located spatially the right to the land (immovable property) cannot be found in the coordinate's "X" and "Y". It is necessary, and more and more often the 3D coordinate system is being applied.

Rights to cadastral objects may refer to spaces above or below the earth's surface. So, the presentation of rights through the 2D projection of land parcels cannot accommodate complex, overlapping real estate, so they must be extended to three-dimensional 3D space and properties.

The expression of the right to property in 3D is a necessity and at the same time, a current problem not solved in the registration process, in solving the conceptual problem of the cadastre regarding the protection of the right - where the right is located spatially.

This issue will boost the content of the register of rights to real estate, the registration process as a whole.

In light of the 2030 Agenda for Sustainable Development, all UN member states are developing and modernizing their land cadastre and land registration systems and, in parallel, formalizing their real estate markets.

The current land management and cadastre systems need a refurbishment.

They must continually evolve to cope with ongoing megatrends such as urbanization, demographic change, digital transformation and so on.

4. Evolution of the object of the cadastral registration process

The process of registering the right over land is in a close dependence on the evolution of the land as an object of land law and on the direct evolution of the right as an object of registration.

The object of the land relations (relations) became first the agricultural lands, then the entire land fund (waters, forests, mountains, subsoils, etc.). The diversity of land through its qualities, first of agricultural land then of the land fund, also gave rise to a diversity of land relations. If, at the initial stage of the land relations, the land fund was diversified only into agricultural and non-agricultural land, then, at present, the Land Code of the Republic of Moldova includes seven categories of destination, each with its particularities. [3] A similar situation can be found in the practice of all countries.

The diversification of the land fund into destination categories is also substantiated by the content of the land relations within these categories. In terms of the content of the land relations formed by the lands intended for agriculture, they will not be like those that were formed under the influence of the fund occupied by forests, the land fund of the waters, the one occupied by constructions, installations and developments, etc.

The land relations already from those mentioned, depending on the content and structure of their object (land) form a differentiated content of the relations, works, facts, ideas regarding the role of land (land fund) in society.

We find in practice a diversity of land relations that depends on:

- the content of the subject matter of land relations;
- the demands of the company in the process of land use (object);
- environmental conditions, etc.

The particularities of the categories as "fundamental notions" in the process of cadastral registration of land rights are the result of the chain link between land; land relations; land law. The land represents the object of the land relations; land relations are

the object of the right over the land; the right over the land is the object of cadastral registration.

Obviously, the beginning of the peculiarities of land relations lies in the structure and content of land (land fund). Land use categories have a direct influence on the content of land relationships. Categories of land law (as the object of the cadastral registration process) are target of land-use categories. This axiom allows us to establish a link between the categories of land use and the categories of land law (object of the cadastral registration process).

In this context, the object of cadastral registration includes the following categories:

- the right over land intended for agriculture;
- the right over land intended for construction, facilities.
- the right over the land of the water fund;
- the right to forest land.

More and more current are becoming the detailed cadastres (specialized) such as the agricultural, forestry, water, etc. each being based on a register. The cadastre system as a whole includes a system of registers and the object of registration at the same time as the totality of the rights over the land becomes the totality of the qualitative attributes.

In other words, the qualitative attributes of the land become the object of registration. In this area, limited natural resources are becoming more widespread as an object of registration.

5. Conclusions

Land law as a social category, within land relations, represents a regulatory mechanism (methodology) and, at the same time, the object of the cadastral registration process. As advanced as the process of registering land rights will be as credible as the protection of land law will be, the effective level of regulation of land relations.

Knowledge of the spatial location of land law is, from the very beginning, an important information in the protection of law. At the same time, practice has shown that just knowing the location in space is too little for a credible protection of land law. The solution was found in the implementation of the register of depts on land.

From the analysis of the historical development of the cadastral registration process of the right over land, from the analysis of the purpose and objective necessity of the protection of the rights over the lands, over time, the necessity of protection has developed (evolved) from the unitary right over the land, to a diversity of rights, bonds, restrictions, priorities, interests, etc.

The Republic of Moldova develops land reform and takes concrete measures to protect the rights over land. For the purpose of the protection of the right, the register of real estate is implemented in the content of the fundamental cadastre (real estate). The cadastre implementation system is created: at central level, offices in the territory and private enterprises.

An important condition of the content of the register is that it corresponds to the requirements of the content of the right and other objects of registration. At the present stage, an important role in the registration process is played simultaneously by bonds, restrictions, interests, etc. It is expected an evolution of the content of the rights in the future that will require the modification of the content of the register, of the registration process.

The cadastral register of land rights proved to be a most effective mechanism for monitoring the situation. In the content of limited natural resources, the land is the most important component part and the cadastral register of land rights is the most important record-keeping mechanism.

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