

Rodna ŽIVKOVSKA, Ph.D

Full Professor, University “Ss. Cyril and Methodius” in Skopje, Faculty of Law Iustinianus Primus, Republic of North Macedonia, r.zivkovska@pf.ukim.edu.mk, ORCID: 0000-0002-8560-9821.

Tina PRŽESKA, Ph.D

Full Professor, University “Ss. Cyril and Methodius” in Skopje, Faculty of Law Iustinianus Primus, Republic of North Macedonia, t.przeska@pf.ukim.edu.mk, ORCID: 0000-0002-3476-2789.

Tea LALEVSKA, Ph.D

Assistant Professor, University “Ss. Cyril and Methodius” in Skopje, Faculty of Law Iustinianus Primus, Republic of North Macedonia, t.lalevska@pf.ukim.edu.mk, ORCID: 0009-0000-8899-0958.

THE LEGAL EFFECT OF THE REGISTRATION OF REAL ESTATE RIGHTS IN THE MACEDONIAN LEGAL SYSTEM

Summary

The paper examines the legal effects of the new system for the registration of real estate established in the Macedonian legal system by the Real Estate Cadaster Act of 2008, and the Real Estate Cadaster Act of 2013. One of the principal goals of these laws was the creation of a modern digital real estate cadaster that would enable easy access to data about real estate and rights over real estate that are correct and up to date. By creating a digital system for collecting, processing and distributing data about real estate and rights over real estate the legislator expected to increase legal certainty in the real estate trade. By looking at the system for registration of real estate rights both from legislative and practical aspects the paper aims to demonstrate to which extent the set purpose has been met. The paper also highlights the system's deficiencies and explores potential avenues for further development.

Key words: real estate, rights *in rem*, cadaster, property, land law.

1. INTRODUCTION

One of the most significant challenges in the real estate trade is providing legal certainty for real estate owners and the holders of other property rights (servitudes, mortgages, real burdens and long-term leases). Providing legal certainty requires creating a system for real estate registration that is efficient and transparent in collecting data about real estate and rights over real estate while adhering to strict regulations regarding how the data is collected, processed, and distributed. Such a system must be secured from breaches and unlawful intervention in the registered data and it also needs to be accessible to all interested parties. In other words, the system for real estate registration needs to be established to ensure lawful, accurate, and public registration of real estate and rights over it.

In the Macedonian legal system, legal certainty and security in the real estate trade were severely compromised due to the lack of regulation or conflicting regulations. Before 2008 the registration of real estate and rights over real estate was regulated by the Survey, Cadaster and Registration of Rights Over Real Estate Act of 1986. This law was passed before the Republic of North Macedonia declared its independence in 1991 and orientated towards a free market-based economy. Needless to say, this law, like many others, wasn't very adapted to the free market requirements regarding the real estate trade.

The Survey, Cadaster and Registration of Rights Over Real Estate Act of 1986 regulated a cadastral system for real estate registration. The system was to incorporate both the data about real estate and rights over real estate. However, for that system to be fully functional it required a state-wide survey to be conducted to collect data for each land parcel. Despite all the efforts to conduct the state-wide survey, by 2005, there was less than 50% coverage, meaning that more than half of the land parcels remained without proper registration in the Real Estate Cadaster (Cenova Mitrevska, Mukanov, 2022, 10). An additional problem was the dual registration of rights over real estate. Some rights were registered in separate registers, not in the Real Estate Cadaster. Such was the case with mortgages, registered in so-called intabulation books kept by the courts. Since the courts, and not the Office for Geodetic Work, kept the intabulation books, the mortgages weren't being registered in the Real Estate Cadaster. This made the data about rights encumbering real estate in the Real Estate Cadaster incomplete. At the time, people could not rely solely on data from the Real Estate Cadaster to obtain complete information about a specific real estate. Other registers, such as the intabulation books had to be checked as well.

The lack of a state-wide survey and the dual registration of rights over real estate decreased the system's efficiency. Still, the most serious problem was the reliability of the registered data on real estate and the rights over real estate. The system wasn't regularly updated, so it didn't reflect changes in ownership, encumbrances, division of land parcels, construction etc. This was due to a lack of regulation that will oblige the officials and interested parties to register all changes. As a result, much of the data became factually

incorrect over time. All this obstructed the real estate trade causing many disputes concerning real estate ownership and other rights over it. It also had an overall negative impact on the economy, foreign and domestic investments, urban planning and development and other areas. This made the reform of the Real Estate Cadaster urgent and necessary. The reform began with drafting new regulations on real estate registration that introduced many novelties in the cadastral system.

2. THE LEGISLATIVE REFORMS OF THE SYSTEM FOR THE REGISTRATION OF REAL ESTATE OF 2008

The process of introducing crucial reforms to the system for registration of real estate began with the Real Estate Cadaster Act of 2008 and continued with the Real Estate Cadaster Act of 2013. Each of these laws played an important role in modernizing the system for the registration of real estate and improving its efficiency.

As it was stated, the process of modernization began with the Real Estate Cadaster Act of 2008 (RECA-2008). One of the most important novelties that this law introduced was the creation of the so-called Geodetic Cadastral Information System (GCIS) (Art. 29, RECA-2008). The GCIS system was created as a digital database that holds information about real estate (spatial and descriptive data), geodetic works, real estate surveys, maps, etc. (Jonuzi, Durduran, 2022,708) GCIS system also collected data about illegal structures and temporary structures found on land parcels throughout the land. Since GCIS was created as a digital database, collecting, processing and distributing the information it contained was made very accessible to all interested parties. The information became available not just in writing, but also in digital form. Technical and legal measures were implemented so that the data contained in GCIS could be distributed through a global electronic network connected to the local electronic network run by the Agency for Real Estate Cadaster (RECA-2008, art. 35). By connecting to the electronic network interested parties were able to directly access the data in GCIS and use it in their work (Dimova, 2012, 6). Among the first users of the electronic connection to the GCIS were businesses providing geodetic services and notary publics. The next intended step was for government institutions and the courts to gain access to the GCIS system and use the system's data for their work. However, this goal was not fully accomplished due to the technical and organizational deficiencies within the government institutions and the court system.

Real Estate Cadaster Act of 2008 also addressed the issue of incomplete and outdated data on real estate and rights over real estate in the existing cadastral records. For the purpose of collecting new and updating old records about real estate the Real Estate Cadaster Act of 2008 called for the systematic establishment of the Real Estate Cadaster as part of the GCIS. The systematic establishment of the Real Estate Cadaster was conducted with systematic registration of rights over real estate, individual registration of rights over real estate, registration of unregistered rights over real estate after the systematic

establishment of the Real Estate Cadaster and conversion of data (RECA-2008, art. 138). The systematic registration of rights over real estate was a state-funded operation that was conducted gradually over a period of four years. It officially ended in December 2012 when the Agency for Real Estate Cadaster declared the establishment of the Real Estate Cadaster to be finalized (Живковска, et. al., 2013, 9). Conversion of data was used as a method for the establishment of the Real Estate Cadaster in rural unpopulated areas. The conversion was carried out by incorporating data from land registers into the Real Estate Cadaster, based on a decision rendered by the Director of the Agency for Real Estate Cadaster. Each decision was published in the Official Gazette of the Republic of Macedonia (RECA-2008, art. 160). Individual registration of rights over real estate and the registration of rights after the establishment of the Real Estate Cadaster was conducted upon request of interested parties (RECA-2008, art. 155, art. 159).

During the process of the establishment of the Real Estate Cadaster, data was also collected about illegally built structures and temporary structures found on land parcels. The collected data was entered into separate registers one for illegal structures, and the other for temporary structures. These registers were part of the GCIS but they were not part of the Real Estate Cadaster (RECA-2008, art. 29). This was done so that these structures are not confused with the legally built structures on the land parcels that were registered in the Real Estate Cadaster. Later, this data was used to create policies regarding the legal treatment of illegal structures.

The Real Estate Cadaster Act of 2008 also regulated three forms of registration of rights over real estate: inscription, pre-registration and notation. All three forms of registration were attributed different functions and effects which will be elaborated further in this text.

3. THE LEGISLATIVE REFORMS OF THE SYSTEM FOR THE REGISTRATION OF REAL ESTATE OF 2013

After the systematic establishment of the Real Estate Cadaster in 2012 the legislator was faced with the dilemma of how to proceed with further reforms and development of the system for the registration of real estate in North Macedonia. The Real Estate Cadaster of 2008 has reached most of the proposed reform goals, creating the GCIS and the systematic establishment of the Real Estate Cadaster being the two most important ones. However, the Real Estate Cadaster Act of 2008 lacked the proper regulation for the next step in the reform process, and that was the systematic establishment of a Cadaster of Infrastructure. It was debated whether the legal base for the establishment of a Cadaster of Infrastructure should be created by amending the existing Real Estate Cadaster Act of 2008 or by passing a new law. The legislator opted for the latter and a new law was passed – the Real Estate Cadaster Act of 2013.

Undoubtedly the most significant novelty introduced by the Real Estate Cadaster Act of 2013 (RECA-2013) was the legal base for the establishment of the Cadaster of Infrastructure as a part of the Real Estate Cadaster. Up to this point, infrastructure was not treated as a separate type of real estate. According to the Ownership and Other Real Rights Act of 2001(OORRA), infrastructure was considered to be an integral part of the land or the building it was built on or incorporated into (art. 12, s. 4). However, the Real Estate Cadaster Act of 2013 defined infrastructure as a separate type of real estate – infrastructural objects. The category of infrastructural objects includes transportation infrastructure (land, water or air transport), underground or surface installations and electronic communication networks and devices with all of their adjoining installations (RECA-2013, art. 2, s.1/8). By defining infrastructure as a separate type of real estate the Real Estate Cadaster Act of 2013 not only enabled the establishment of the Cadaster of Infrastructure but also enabled the legal separation of the infrastructure from the land it is built on. As a result, nowadays infrastructure can be owned, traded or encumbered independently of the land it is built on. This is very beneficial for investors looking to invest in infrastructure construction, as they are not obligated to acquire large portions of land needed for such infrastructure to be built. Unlike the systematic establishment of the Real Estate Cadaster which was mostly funded by the State, the establishment of the Cadaster of Infrastructure is at the expense of the owners of the infrastructure. According to the Real Estate Cadaster Act of 2013 owners of infrastructure were obligated to apply for registration of their rights over infrastructure within 5 years of the day the law came into force.

Another important novelty of the real estate Cadaster is the Registry of the Value of Real Estate and Rent Prices. The driving idea behind the creation of this Registry was the collection of data about the value of each real estate dependent on its location, nature, qualities, age and other indicators. Determining the value of real estate involved conducting a process of mass estimation of the value of all the real estate registered in the Real Estate Cadaster under criteria and formulas determined by the Real Estate Cadaster Act of 2013 (Живковска, et. al., 2013, 12). Since the basis for the estimation of the value of the real estate is objective criteria determined by law and other legal acts, the expectation is that the registered value reflects the approximate and realistic value of each real estate. The information in the Registry regarding the value of real estate and rent prices was intended to be used primarily for fiscal and taxation purposes (RECRP, 2011, 11). However, it could also be used for information purposes regarding the estimated value of real estate. Notably, there were some negative reactions regarding the use of the information in the Registry. It was argued that its use might interfere with the real estate market and the formation of sale prices. However, in practice, the effect of this information had a minuscule impact on the market value of the real estate. On the real estate market supply and demand remain to be the principal determining factors of prices. Nowadays the information is used for statistical analysis aimed at following trends of increase or decrease of the value of real estate and rent prices as well.

The Real Estate Cadaster Act of 2013 also introduced the Graphic Registry for Construction Land. This Registry enables interested parties to obtain information about the degree of overlap between a land parcel and a construction parcel drawn in the zoning plans. Estimating the overlap between the land parcel and the construction parcel is very important for construction and development purposes. What this Registry has shown is that in many situations the drawn construction parcels do not overlap with the land parcels which was a major obstacle to obtaining building permits and a source of disputes between neighbouring landowners.

Another novelty emerging from the Real Estate Cadaster Act of 2013 is the Graphic Registry for Streets and House Numbers. The Registry establishes a unified system for street identification within cities. It does not rely on street names and therefore is not affected by changes in street names.

All the novelties that the Real Estate Cadaster Act of 2013 introduced in the system for registration of real estate and rights over real estate had a significant impact on the modernization of real estate registration in the Macedonian legal system. As a result of these efforts, nowadays there is an efficient system for real estate registration that provides data about real estate relatively quickly. The operation of the system is based on several principles prescribed by the Real Estate Cadaster Act of 2013 which will be elaborated next.

4. PRINCIPLES FOR REGISTRATION OF RIGHTS OVER REAL ESTATE IN THE REAL ESTATE CADASTER

The registration of rights over real estate in the Real Estate Cadaster is governed by several key principles: a) the principle of mandatory registration, b) the principle of constitutive registration, c) the principle of publicity, d) the principle of accuracy and faith in the registered data, e) the principle of lawfulness, f) the principle of priority, g) the principle of specificity and h) the principle of autonomy in the registration of data. These principles were set forth in order to ensure that all data entered in the Real Estate Cadaster will be entered correctly lawfully and securely. The principles govern the everyday work of the employees within the Agency for Real Estate Cadaster and affect how rights over real estate are acquired, exercised and protected. Each of the set principles has a separate function and relevance regarding the registration of rights and entering other data regarding real estate.

a) The principle of mandatory registration is placed to ensure that every right or other data about real estate will be entered into the Real Estate Cadaster when the Real Estate Cadaster Act or other subjects-specific laws mandate registration of certain rights or other data regarding real estate (RECA-2013, art. 142). Another function of the principle of mandatory registration is to ensure that government institutions, municipalities, notary publics, lawyers, enforcers and other public services will use the data from the Real Estate Cadaster exclusively in their work. This will prevent the drafting of decisions and other

legal acts (contracts, wills) with incorrect and/or unreliable data about real estate and rights over real estate.

b) The principle of constitutive registration is set forth to ensure that property rights over real estate will be unconditionally acquired at the moment of their registration in the Real Estate Cadaster (RECA-2013, art. 143). The same applies to the termination of property rights over real estate. As it is stated, property rights over real estate are considered to be terminated when they are deleted from the Real Estate Cadaster. This principle played a crucial role in solving decades-long problems regarding the acquisition of property rights over real estate. In the past, there were many disputes among potential owners or other property rights holders who competed to acquire the same right over a particular real estate. The Ownership and Other Real Rights Act of 2001 contributed to the problem of collision of rights over real estate because it prescribed different moments of acquisition of ownership or other property rights over real estate. As it is stated in the Ownership and Other Real Rights Act, real estate ownership acquired based on a legal act such as a contract or a will is considered as acquired at the moment when the transfer of ownership is registered in the Real Estate Cadaster (OORRA, art. 148, s.1). Real estate ownership acquired by a court decision or a decision delivered by an authorized government body is considered to be fully acquired once that decision becomes final, while the registration of the transfer of ownership is provisional (OORRA, art. 154, s.2). The problem emerges when the owner who acquired ownership over a real estate based on an agreement is confronted with the owner who acquired the same right of ownership over the real estate based on a court decision or a decision rendered by an authorized government body. Since the two rights collide a dispute occurs between the two potential owners that needs to be resolved before the courts who determine which of the potential owners will become an actual owner of the real estate. Similarly, these types of disputes occur with other property rights over real estate such as servitudes and mortgages. Once the Real Estate Cadaster Act of 2013 proclaimed that all property rights over real estate are acquired at the moment of their registration in the Real Estate Cadaster the number of these types of disputes decreased. The main cause for the reduction of disputes was due to the fact that people started to rely on the data already registered in the Real Estate Cadaster. By relying only upon the data in the Real Estate Cadaster people avoided entering into legal relations with persons who didn't have their rights registered in the Real Estate Cadaster. The mandatory registration also forced people who acquired rights over real estate based on court decisions or decisions rendered by an authorized government body to send these final decisions to the Agency for Real Estate Cadaster so that their acquired rights could be registered in the Real Estate Cadaster. The principle of constitutive registration also plays a crucial role in maintaining accurate and up-to-date data about rights over real estate particularly property rights over real estate.

c) The principle of publicity affords free public access to the data contained in the Real Estate Cadaster and in the GCIS as well (RECA-2013, art. 144). This principle guarantees that every person will be granted access to all data on real estate and rights over

real estate without the need to prove the existence of some legitimate interest in obtaining such data. It needs to be noted that the publicity principle does not apply to personal data protected under the Data Protection Act of 2020. Some data is specially reserved for public authorities like complete data about the real property belonging to a particular person. This type of information is not publicly available because it is considered to be sensitive and it might hurt the person's interests if it is made publicly available. The principle of publicity is not only beneficial for third parties who like to gather information about particular real estate and rights over that real estate. It is also beneficial for people whose rights are registered in the Real Estate Cadaster. The registration guarantees the existence of those rights and their *erga omnes* effect (Живковска, 2005, 32; Группче, 1983, 24).

d) The principle of accuracy and faith in the registered data is based on the assumption that all data in the Real Estate Cadaster is accurate (RECA-2013, art. 145). Since all data in the real estate canister is presumed to be accurate no person who acted in good faith could face negative consequences for trusting the data even if is later confirmed the data was incomplete or inaccurate. In this case, the negative consequences of entering inaccurate or incomplete data fall on the Agency for Real Estate Cadaster. This means that the Agency should be held responsible for indemnifying the person who suffered damages from the data being incomplete or inaccurate. For example, if a mortgage was erroneously deleted from the Real Estate Cadaster at the time when a person has acquired ownership over the encumbered real estate, then this person is not obligated to accept the encumbrance. This is because he or she acted in good faith and trusted the data in the Real Estate Cadaster where no mortgage was evident. The mortgage creditor, on the other hand, has the right to be indemnified for the loss of his right over the real estate by the Agency because the loss of the right is due to a faulty data entry by the Agency.

e) The principle of legality guarantees that all data in the Real Estate Cadaster will be entered lawfully and under conditions determined by the governing laws (RECA-2013, art. 146). This principle is mainly directed towards the employees of the Agency for Real Estate Cadaster who are authorized to enter data about real estate and rights over real estate. All data entered into the Real Estate Cadaster needs to be derived from an appropriate legal base such as a contract, a will, court decisions, a decision of another government body or other legal acts. Employees are responsible for the lawfulness of the data entry and can be held liable for any data entry that was not based on a legal act or was entered contrary to the legal act.

f) The principle of priority obliges employees to enter data in the Real Estate Cadaster by the order of priority determined by the moment of applying for registration of right or other data about real estate (RACA-2013, art. 147). Respecting the temporal priority is very important, especially in the issue of acquiring rights over real estate. The priority principle prevents a previously filed application for registration of rights from being set aside in favour of a later-filed application.

g) The principle of specificity requires that the data on the real estate and the rights over real estate in the legal act correspond with the data already entered in the Real Estate Cadaster (RECA-2013, art. 148). If the data from the legal act does not correspond with the data entered into the Real Estate Cadaster, then no new data entry can be made until the inconsistencies are removed.

h) The principle of autonomy refers to the employees of the Agency for Real Estate Cadaster who are authorized to enter data into the Real Estate Cadaster (RECA-2013, art. 149). According to this principle, employees are autonomous in their decision whether they will enter a particular data into the Real Estate Cadaster. This is intended to prevent any unauthorized influences over the employee's work. They only need to abide by the governing laws when registering data about real estate and rights over real estate.

5. TYPES OF REGISTRATION OF RIGHTS AND OTHER DATA ON REAL ESTATE

There are three types of registration of rights and other data on real estate: inscription, pre-registration and notation (RECA-2013, art. 169). The three types of registration were defined primarily by the Real Estate Cadaster Act of 2008 and they were reaffirmed by the Real Estate Cadaster Act of 2013. Each of the three types of registration of rights on real estate has a different legal meaning and effect.

a) Inscription is a type of registration of property rights over real estate (RECA-2013, art. 170). Subject to inscription is the right of ownership and the other property rights (real rights) over real estate such as servitudes, mortgage, real burden and the right to a long-term lease. The inscription is defined as full, definite and unconditional registration of the acquired property rights over real estate. This means that according to the Real Estate Cadaster Act of 2013, once the property right is inscribed in the Real Estate Cadaster, that right is considered to be fully acquired.

b) Pre-registration is a type of conditional inscription of the right of ownership over real estate (RECA-2013, art. 171). The pre-registration provides priority to the potential owner for inscription of his or her ownership right once all the legal conditions for inscription are met. Pre-registration precedes inscription when acquiring ownership goes through several stages for the transfer of ownership to be completed. For example, when a sales contract has been concluded, the contract not only needs to be notarized by a notary public, but it also needs to be filed before municipal authorities to calculate the tax for real estate trade. This process can sometimes last for weeks. This is why potential owners who go through this phase of transfer of ownership prefer to apply for pre-registration of their right of ownership in order to ensure that no other person registers ownership or other property rights over the real estate during this process of ownership transfer. However, the priority that the pre-registration provides is not indefinite. According to the Real Estate Cadaster Act of 2013, pre-registration has legal effect up to six months from the date of pre-registration. If the potential owner completes the process of ownership transfer during these

six months, then he or she is granted a priority to inscribe his or her right of ownership in the Real Estate Cadaster. The date of inscription will be the same as the date of the pre-registration. If the potential owner fails to complete the ownership transfer within six months then the pre-registration has no legal effect and other persons may register ownership and other rights over the real estate in question. In legal practice, there are dilemmas about whether the priority granted by the pre-registration has an *erga omnes* effect. Regarding this issue, public enforcers claim that the priority granted to the potential owner with pre-registration should not have legal effect in the enforcement proceedings initiated against the registered owner of the real estate. It is our opinion that there is no basis for such interpretations of the provisions in the Real Estate Cadaster Act of 2013 regarding the legal effect of pre-registration. The priority that pre-registration grants to the potential owner has an *erga omnes* effect, meaning that nobody, not even public officials, can circumvent its legal effect. With this in mind, there is no legal impediment to the enforcement warrant being pre-registered as well. In case the potential owner fails to complete the ownership transfer within six months of the pre-registration, the enforcement warrant can be executed.

The pre-registration which is a conditional inscription of the right of ownership in legal practice is often confused with another form of pre-registration - the pre-registration of rights over structures under construction (RECA-2013, art. 172). The pre-registration of rights over structures under construction involves entering data about the structure under construction, the building permit, the investor, the mortgage lenders and the future buyers of the structure under construction. All of this data is entered into a special pre-registration sheet that is separate from the land title certificate where acquired property rights over real estate are inscribed. The pre-registration sheet was introduced, for the first time, by the Real Estate Cadaster Act of 2008. The reason was the need for publicity in the trade with structures under construction. This legal solution followed after multiple real estate trade scams committed by investors. Investors were involved in a fraudulent trade of structures under construction by concluding multiple sales contracts with different buyers for the sale of the same structure. Building units under construction were sold to multiple buyers during the construction process. As a result, most potential buyers did not acquire ownership of what they were buying during the construction process. The pre-registration sheet played a crucial role in preventing these fraudulent practices. However, it needs to be pointed out that there are limits to the extent that the pre-registration sheet can protect future buyers of structures under construction from being defrauded. In effect, the pre-registration sheet protects future buyers from being defrauded by multiple sales of the same structure. However, it does not guarantee that they will have their rights registered into a land title certificate. Such a guarantee doesn't exist because the pre-registration sheet holds no guarantee that the investor will complete the construction process resulting in registration of the structure in a land title certificate. Needless to say, if the structure is not completed and it is not registered in a land title certificate, then ownership and other property rights over

such a structure cannot be registered in the land title certificate either. Having this in mind, we can conclude that the pre-registration sheet guarantees future buyers and mortgage lenders priority in registering their rights in a land title certificate under the condition that the structure under construction is registered in the land title certificate as well.

d) Notation is a type of registration of rights and data relevant to a particular real estate (RECA-2013, art. 173). Several rights are subject to notation and those are: leases, concession contracts, lifetime alimony contracts, gift contracts in case of death, lend-use contracts and the contractual pre-emption right. It's important to underline that the notation of these rights doesn't have a constitutive effect. Subject to notation is also other data about the real estate, such as temporary measures, personal information about the holders of property rights, fiduciary transfer of ownership and other relevant data. The type of notations that can be entered into the land title certificate is strictly determined by law, which means that notation can be entered in the land title certificate only if the Real Estate Cadaster Act of 2013 or other subject-specific law allows for a particular type of notation to be entered. The limit on the type of notations that can be entered into the land title certificate was placed to prevent cluttering the land title certificate with different types of notations, that before 2008, were entered at the will of interested parties.

The different types of registration of rights and other data exist to ensure legal certainty in the real estate trade. The inscription guarantees that the registered right of ownership and other property rights over real estate are lawfully acquired and belong to the persons registered in the land title certificate as holders of those rights. To that effect, any person who enters into real estate trade with a person or persons registered as owners or other property rights holders is guaranteed to obtain such rights in the form and extent they were registered in the land title certificate. Pre-registration is a type of registration that guarantees potential owners priority in the inscription of ownership rights if they complete the ownership transfer within six months of the pre-registration. The pre-registration sheet, on the other hand, guarantees buyers and mortgage lenders of structures under construction priority in registering their rights in the land title certificate, after the structure under construction has been entered into it. Notations offer valuable information about rights and facts relevant to the real estate trade.

However, as we have previously stated, the system isn't perfect and some deficiencies need to be addressed. One significant deficiency is the lack of efficient instruments for controlling and correcting mistakes made during the entering of data and/or rights over real estate.

According to the Real Estate Cadaster Act of 2013 mistakes made during the process of data registration or rights over real estate can be corrected via an administrative procedure for removal of errors (Art. 209). The errors that can be removed in such proceedings are errors regarding the size, nature and other data about the real estate, as well as errors in the name and other personal data about the owner or holders of other rights over real estate. These so-called "technical errors" can be removed by employees of the Agency

for Real Estate Cadaster if no changes are made in the land title certificate after the erroneous entry. Corrections are made without the need to inform the owner or other holders of property rights over real estate. The more significant errors, such as registering the wrong person as the owner of a real estate or deleting other property rights and relevant data about the real estate by mistake are corrected upon a request of the affected party or by employees in their official capacity with the consent of the affected parties. In such cases, the affected party gives written consent notarized by a notary public. If a request for correction is filed or consent is given, then the data in the land title certificate may be corrected. The Agency issues confirmation for the correction of the mistake. On occasion when the affected party refuses to give consent for the correction of the error, the error cannot be corrected. However, the fact that an error is made is noted in the land title certificate. The notation makes the existence of the error public for all third parties even though no corrections are made within the records. This is a very debatable legal solution because it inadvertently affects owners and holders of other rights over the real estate. The question that emerges here is whether it is justifiable to make a notation for an existing error without addressing the problem at hand which is the fact that an error has been made that affects the rights of the owners and other property rights holders. It is our opinion that these provisions of the Real Estate Cadaster Act of 2013 need to be amended. Any amendments must address the question of liability for erroneous entries in the Real Estate Cadaster and proper indemnification of the affected parties. Since making errors while entering data in the Real Estate Cadaster threatens its very function which is providing legal certainty and security in the real estate trade measures need to be taken that will lower the risk of mistakes. Among the measures that need to be taken are those that ensure double verification of the accuracy of each data entry before it is made public and distributed. The digital system for data entry needs to be upgraded and prompt so it can identify obvious technical errors immediately and alert the employee entering such data about the mistake. By strengthening control over data entered by employees and upgrading the digital system we believe that the possibility of erroneous entries in the Real Estate Cadaster would be decreased. On the other hand, if such errors do occur, we consider that they need to be removed in the interest of the accuracy of the Real Estate Cadaster. When such errors affect registered rights over a real estate and cause damages there needs to be a clear and precise regulation on liability and how the affected parties will be indemnified.

6. CONCLUSION

The Real Estate Cadaster Act of 2008 and the Real Estate Cadaster Act of 2013 have introduced significant reforms to the system for real estate registration. Both laws have had a role in modernizing the system and improving its efficiency. As a result, legal certainty and security in the real estate trade were increased.

The Real Estate Cadaster Act of 2008 regulated the creation of the so-called Geodetic Cadastral Information System (GCIS). It also addressed the issue of incomplete and outdated data on real estate and rights over real estate by prescribing systematic establishment of the Real Estate Cadaster as part of the GCIS. During the process of the establishment of the Real Estate Cadaster, data was collected about illegally built structures and temporary structures found on land parcels. Later, this data was used to create policies regarding the legal treatment of illegal structures.

The Real Estate Cadaster Act of 2013 regulated the establishment of the Cadaster of Infrastructure as a part of the Real Estate Cadaster. Other novelties include the establishment of the Registry for the Value of Real Estate and Rent Prices, the Graphic Registry for Construction Land and the Graphic Registry for Streets and House Numbers.

Registration of rights over real estate in the Real Estate Cadaster is governed by several key principles: a) the principle of mandatory registration, b) the principle of constitutive registration, c) the principle of publicity, d) the principle of accuracy and faith in the registered data, e) the principle of lawfulness, f) the principle of priority, g) the principle of specificity and h) the principle of autonomy in the registration of data. These principles were set forth in order to ensure that all data entered in the Real Estate Cadaster will be entered correctly lawfully and securely.

There are three types of registration of rights and other data on real estate: inscription, pre-registration and notation, each with a specific legal meaning and effect. Inscription guarantees that the registered right of ownership and other property rights over real estate are lawfully acquired and belong to the persons registered in the land title certificate as holders of those rights. Pre-registration is a type of registration that guarantees potential owners priority in the inscription of ownership rights if they complete the ownership transfer within six months of the pre-registration. The pre-registration sheet guarantees buyers and mortgage lenders of structures under construction priority in registering their rights in the land title certificate once the structure has been entered into it. Notations offer valuable information about rights and facts relevant to the real estate trade.

Analysis has shown that the system isn't perfect and some deficiencies need to be addressed. One significant deficiency is the lack of efficient instruments for controlling and correcting mistakes made during the entering of data and/or rights over real estate.

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Др Родна ЖИВКОВСКА*

Др Тина ПРЖЕСКА**

Др Tea ЛАЛЕВСКА***

ПРАВНИ ЕФЕКАТ РЕГИСТРАЦИЈЕ ПРАВА НА НЕКРЕТНИНЕ У МАКЕДОНСКОМ ПРАВНОМ СИСТЕМУ

Апстракт

У раду се разматрају правни ефекти новог система за регистрацију непокретности успостављеног у македонском правном систему Законом о катастру непокретности из 2008. године и Законом катастру непокретности из 2013. године. Један од главних циљева ових закона био је стварање модерног дигиталног катастра некретнина који би омогућио лак приступ подацима о некретнинама и правима над некретнинама који су тачни и ажурни. Стварањем дигиталног система за прикупљање, обраду и дистрибуцију података о некретнинама и правима над некретнинама законодавац је очекивао да ће повећати правну сигурност у трговини некретнинама. Гледајући систем за регистрацију права на некретнине, како са законодавног тако и са практичног аспекта, рад има за циљ да покаже у којој мери је испуњена постављена сврха. У раду се такође наглашавају недостаци система и остражују потенцијални путеви за даљи развој.

Кључне речи: некретнине, стварна права, катастар, имовина, земљишно право.

* Редовни професор, Универзитет „Св. Кирил и Методиј, Скопље, Правни факултет „Јустинијан Први“, Република Северна Македонија, r.zivkovska@pf.ukim.edu.mk, ORCID 0000-0002-8560-9821.

** Редовни професор, Универзитет „Св. Кирил и Методиј, Скопље, Правни факултет „Јустинијан Први“, Република Северна Македонија, t.przeska@pf.ukim.edu.mk, ORCID 0000-0002-3476-2789.

*** Доцент, Универзитет „Св. Кирил и Методиј, Скопље, Правни факултет „Јустинијан Први“, Република Северна Македонија, t.lalevska@pf.ukim.edu.mk, ORCID 0009-0000-8899-0958.

