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1. INTRODUCTION

Only the view of the past, of the historic landmarks of land consolidation in the territory of today's Slovakia, and analysis of the way of the real estate cadastre's development will enable us to understand the objectives and significance of current land consolidation in Slovakia. It is aimed at a rational arrangement of the landscape area in such a way as to have the country legally settled and maximum productive, in accordance with the requirements for the protection of environment and ecology of the landscape, and at the same time the country aesthetically impressive for man's eye.

2. HISTORIC LANDMARKS OF LAND CONSOLIDATION AND THE DEVELOPMENT OF CADASTRE

2.1 Registering real estates and related ownership rights in the past

History of real estate registering and registering of the title to real estates by means of state information systems in Slovakia dates back to the first half of the 19th century. Registering and taxation of real estates in the territory of today's Slovakia has, of course, older roots, but in this paper it is not necessary to deal with them in more detail.

It is obvious that this history in various countries of former Austria-Hungary is very similar and practically identical in the countries of former Hungary. The registering of real estates and ownership relations to real estates in land register in the territory of former Hungary began in 1852 by the Emperor's patent, with which were linked the rulings of former Hungarian Ministry of Justice from the years 1853-1855. Both acquirement of the title to real estate and the burdening of the real estate by charges and mortgages were controlled in accordance with the above regulations.

The inventory of that time consisted of two parts: land register and land cadastre. The inventory tools were single-purpose, their function was the protection of ownership

right and the utilization for tax purposes. Separate inventory had been kept for each purpose. Public books (land register and less frequented railway book, water book and mine book) served for the real estate and legal purposes, land cadastre served for the taxation purposes.

In the land register real estates were registered according to municipalities or cadastral areas and owners. There were titles and other real rights registered connected with the real estates. By contribution (intabulation) into the land register were guaranteed titles and other real rights to real estate, by which was actually realised the intabulation principle - the main principle of land register. By this principle it was proclaimed that the title to the real estate is acquired only when the entry to the land register had been made and not only by signing the contract. By this principle the state realised one of its main functions, namely the protection of real estate ownership.

From above it follows that in the land register was indicated information about the owner of real estate (or, as the case may be, joint owners and their shares about his rights and the facts that influence these rights (charges, mortgages etc.). Into the land register were recorded all real estates except for the so-called public property (roads, streets, squares, ditches, non-registered property). The unit of the land register was so-called land register body i. e. real estate or several real estates, which made up an economic and legal unit of the same owner or joint owners. Part of the land register was also land book map.

Land register was mainly a state land inventory. It can be considered as an inventory, which registered the data on each lot, as well as the data connected with the soil and its use. It provided information about the total surface of the country obtained on the basis of information on individual lots. It conveyed the size, shape, position and perimeter of each registered lot. Main attributes of inventory were acreage, kind of a lot, value of a lot - so called cadastral returns.

2.2 The oldest kinds of land consolidation

In the period before 1848 land consolidation was connected with arrangement of the titles between landlords and serfs. In this period the largest part of land, besides royal and church land, was owned by nobility. The land of nobility was, according to the form and method of land use, divided into lord's (dominical) land and copyhold (rustical) land, which was owned by a landlord, but left for serfs (copyholders) to use it.

After abolition of serfdom in 1848, when peasants became free and could dispose the land freely, massive disintegration of agricultural land started. In accordance with the standards of Hungarian customary law, when the farmer died, his lots were divided among all inheritors in such a range, that one can speak about illogical and irrational disintegrating of the land. With this disintegration of lots is closely related also their scattering, indefinite shape and poor access.

Among the oldest kinds of land consolidation of seisin from this period rank: copyhold land segregations, proporcioning - so-called proportional dividing, dividing of common pastures and land redistributions. They were legally based on the legal articles from the years 1836, 1840 and 1870.

Copyhold land segregations meant separation of the "pertinencies" of former serfs (copyholders) from landlord land. They were introduced in order to measure new state, stake out permanent boundary between lord's and serfdom land and to fix aliquot shares of individual members of copyhold land body .

The subject of proportional division was common copyhold land property, so-called communities of forests and pastures. These consolidations were made in order to measure of common countryside property, identify the estate of property and determine shares of the members of overall common property.

Division of common pastures consisted in the division of copyhold pastures and their allocation to individual shareholders.

To the most significant land consolidations of that period belonged land redistributions. In Slovakia it is necessary to distinguish between land consolidations executed before 1908 and consolidations executed after 1908.

In the first case they were copyhold land redistributions, whose main purpose was not consolidation of lots, but allocation of the lots into joint ownership to individual copyhold settlements on the basis of prior segregation and ratable division. The lots in so-called strips were not allocated to shareholders of copyhold settlements, but respective acreage was marked by a share of land use titles. On the basis of such arrangement were established land registers, which do not indicate real land use, but only joint seisins and respective shares of the members.

On the other hand, the cadastre, which was being established in the period, took as the base the real situation in the countryside and usually it was made out independently from the situation in the land register. That meant that also parcel numbering was different. It resulted in inconsonance between cadastral operatus and land register.

2.3 Land redistributions

In land redistributions made after 1908 the real seisins and the state in land register are taken as the basis for the assignation of the title. If the land register was not settled, resolution was carried out as the first step. Measuring works were carried out in trigonometric network and the maps were made out in limited sheets in cadastral system. Cadastral operatus was laid-out in the way that enabled it to be taken over for the purposes of land cadastre and land register. Until 1948 approximately 220 land redistributions were carried out in accordance with old legal regulations.

Land redistributing works were started on the basis of the decision of County Court, which was represented by land redistribution judge. He introduced a chosen surveyor to the work and at the same time he requested both the description of cadastral boundaries and space excluded from the land redistribution process. At the same time was carried out the land redistribution areas' monumentation by landmarks.

The surveyor began his work in the municipality with designing control network, measuring consolidation area and beginning examination of property seisins. Then the measurement of old state was started according to the real situation independently from the state of topographic base. Simultaneously with the surveying of the old situation the land valuation of individual parcels was carried out.

When the measurement of the old state was carried out, the projection in blue colour in topographic base was carried out and the acreage of individual parcels was calculated. The position book was made out and according to the land register, on the base of land register insets the property title was made out for each insert with old and new state. On the basis of the document made by this method the land redistribution title was fixed in crowns for each authorized participant of land redistribution. The land redistribution surveyor then made an overall balance of the titles by making-out the so-called Combinatory A. On the basis of fixed titles the preliminary location plan was elaborated.

After dislocation plan had been negotiated and approved the claims of every participant were projected on the maps and the definite cadastral document of a new

situation, so-called Combinatory B was drawn up. According to the projected new state the new situation was staken out also in the field. All new boundaries were mounted by stone landmarks.

In the end the surveyor asked the County Court for authentication - that is for making documents authentic, new situation approved and new participants in land redistribution given the seisin of new lots.

As far as legal consequences and the significance of authentication and aspects of land and legal settlement are concerned, it should be mentioned that only authenticated Combinatory B is a definite land redistribution document of a new situation, consisting of new maps made out in Křovák's projection and representing new situation staken out in the field with relevant written operatus, which was in the respect of legal significance a valuable ground for transformation of land register's titles. Establishment of new land register's insets was carried out only in those cases, in which there were no insets established until then, and so only land register records were at disposal (after the land cadastre had been established).

As a result of the events in 1948 the semi-finished land redistributions were not completed in Slovakia and in those cadastral areas (hereinafter referred to as "c.a.") in which land redistributions were carried out, unfortunately land register insets were not consequently transformed. Authentication was carried out immediately after dislocation of new lots, or, as the case may be, during the staking-out process. Citizens entered the seisins, but the records in the land register were not made, and at present time it brings along a lot of troubles in titles certifying. It concerns 36 c.a. out of a total number of 3524 c.a. in Slovakia. It should be noticed that the land redistributions were considerable interference with the then structure of very disintegrated seisin of the period.

2.4 Economical and technical land consolidation

After the second world war the state of two tools of land registration - the land cadastre and land register - was not of good quality. On one half of the territory the land register operatus was not established, considerable part of cadastral operatus was not reflected in the land register by means of entering proceedings, considerable part of land redistributions had not passed through entering proceedings, war events resulted in the loss or destruction of land register documents and of the land register covering the space of 376 cadastral areas and division of real estates into joint owner shares reached socially unjustifiable extent. In spite of the intabulating principle of recording the title into land register the change of title was not recorded in a certain number of cases for various reasons (title's acquirement outside the land register due to the inheritance, tenure or exchange of the land either for the lack of discipline or for the attempt to avoid duty of charges). Except for the first name and surname there were not used other identification data and that resulted in confusion of the owners and other misunderstandings.

As a result of social changes also essential changes in the ownership relations system occurred and in the recording of the title to the real estate. After Civil Act No. 141 from the year 1950 had been published, the intabulation principle stopped to be valid and another principle became valid, namely, the title to the real estate was acquired by the document itself. Since then the state recorded in the land register started to be different from the real legal status, even in the space where the land register had been kept and updated properly until that time. Efforts to enforce the land use relations to the collectivized forms of the use of agricultural and forest land in contrast with traditional ownership relations were accompanied by simplified view of recording tools. The above mentioned social changes in Slovakia caused that:

- according to the regulations on the confiscation of agricultural land from the year 1945, revision of the first land reform from the year 1947 and the new land reform from the year 1948, a part of agricultural and forest land passed to the ownership of the state; a part of this land was consequently allotted to physical persons as to its owners, in many cases, however, without recording the allotments and acreage to the land register;
- by the Act No. 81 from the year 1948 the copyhold pasture land passed into the ownership of collective farms (often without being recorded in to the land register);
- by the Act from the year 1949 the state became the owner of the property of towns and villages;

As the result of gradual introduction of the right of collective farm use, of the right of the use land and other agricultural property aimed at production provision, and of the right of forest land use aimed at forest production and other forest's functions, almost all land in private ownership passed to the agricultural and forest organizations' use, while formally retaining the ownership right, which remained either recorded in the land register, or in allotments or acreages, but without subsequent updating.

Legal measure concerning the land seisin was the Act No. 47 from the year 1948, so-called "Land Consolidation Act", which dealt with the consolidation of land in big fields for collective farming. After this Act there were published several legal amendments regarding economical and technical land consolidation (hereinafter referred to as "HTÚP").

One of the amendments was the "HTÚP" comprehensive projects. The objective of this form of "HTÚP" was to arrange and use maximum land fund, further to regulate specific capital construction, to carry out different technological measures such as water management, telecommunications, soil protection etc. The employees of geodetic and cartographic departments, however, had not been involved in this work.

"HTÚP" were carried out since 1950 in the space of collectivized rural area. In most cases there occurred only merging of the lots within the road network. One of the "HTÚP" functions was to put a damper on person's awareness of his/her ownership right and to prefer land use relations to the real estates both in collectivized rural and urban areas.

In the 1950s the recordings in the land register stopped to be carried out. By publishing the Civil Act No. 40 from the year 1964 and the Act No. 22 from the year 1964 on the real estate registering (hereinafter referred to as RER), the geodesy and cartography departments were entrusted to register the titles to real estates. Keeping of RER actually meant continuation and improvement of the real estate registering from the period 1955-1960, indicated as land registering.

By the Act on RER previous tools of registrations were connected. The content and formal structure of the Act corresponded to the level of development of productive forces and relations reached in the mid- 1960s and the level of legislation of the period. As a result, the entire activity of legal relations' recording in the period 1964-1990 was related - be it according to the documents received or due to the examination in the municipality, only to urban area and special parts of rural area excluding collectivized parts of agricultural or forest land. Another negative side was, that by the Act the procedure of establishing the inventory of the title to real estates in cases where titles to the real estates were not attested, i.e. in those cases when the title cannot be attested by the document which establishes or certifies the title.

Legislative standards were not changed, and complex and complicated situation in the field of registration of the titles to real estates, which was unsolved, manifested itself by elements of chaos within the registration.

3. LAND OWNERSHIP CURRENT STATUS

3.1 New legal amendment of the registration of real estates and related ownership relations

The structure of ownership in Slovakia as a result of real economical, social, political and historical processes was determined by several land reforms. The principal step on the journey to the removal of ownership disintegration and differences between legal and real situation was the emancipation of all sorts of ownership. By the Acts No. 265 and 266 from the year 1992 the "land cadastre" was established as registrating tool, carrying out the function of the state in the protection of legal relations in the use and protection of the real estates and as a real estate state information system. Registration of contracts by state notary was from 1st January 1993 replaced by the decision on the licence of the entry into real estate cadastre. New "cadastral law" No. 162 from the year 1993 on the cadastre of real estate and on the recording of ownership and other titles to the real estates emerged as a result of the effort to match the new legal amendment of cadastre with the new structure of constitutional law, and also with the the changes that occurred in the related legal relations.

The system of the recording the titles to the real estates into cadastre is based on three principles, namely, the constitutive, registrating and prenotation ones.

3.2 Commutation of injustice against property owners from the period 1948/1989

Analysis of the period 1948-1989 brings the specifics as follows: - collectivization of agricultural and forest lots after the year 1949 was accompanied by the separation of land ownership from land use; in most cases the ownership of a lot was not changed in connection with the collectivization of rural area (nationalization etc.); the ownership to original real estates from the period before collectivization was on principle preserved;

- transfer and change over of the titles to the rural area's lots, which were in perpetuity taken beneath constructions (such as water reservoirs, roads, railways, regulated water courses etc.), were only partially realised through expropriation or buyout;

- change-over of the title by inheritance to the original real estates that were collectivized and so the possibility of the execution of ownership rights, was mostly possible only by simplified method of inventory without complete geometric definition of parcels in rural area; such a simplified inventory of real estates and right to them cannot be used in today's real estate cadastre and this group of inheritors must be duly solved in elaborate way;

- In the period 1949/1989 no state body or another institution were entrusted with the administration of the information system on the titles to the lots in rural area; at present time in the connection with completion of the system it is necessary to take as a basis the information system of land register with the state conserved from the year

1949 and update this state gradually with all changes that occurred during the elapsed period.

In order to moderate some of the injustice made against the owners of agricultural and forest land in the period 1948-1989 and to achieve the improvement of the care of agricultural and forest land by means of the restoration of original titles, in 1991 the Act No. 229 on regulation of ownership relations to land and other agricultural property - "the Act on Land" was adopted. By this Act the authorized persons are defined, to whom accrues the title for delivery of the real estate, as well as the term for the written evidence to be submitted on order to demand for this claim.

The extent of disintegration of land ownership in Slovakia in many cases reached such a situation that a fraction, by which a joint-ownership share is expressed, is difficult to read for a layman, its real value is hard to imagine and there is no sense in dealing it on the real estate market. This unacceptable situation is solved by part of the Act No. 180 from the year 1995 on some measures for the arrangements of the titles to lots. It establishes measures against disintegration of lots that are outside the built-up area of a municipality. On the basis of a deed or legal decision neither the lot (the agricultural one) smaller than 2,000 m² nor the lot (the forest one) smaller than 5,000 m² can arise from existing lots.

Discrepancy between the current situation in agricultural and forest rural areas (out of 1,825 million lots only 93,000 parcels have their ownership relation written in the certificate of ownership) and the situation of definite cadastre operatus is solved by land consolidation.

3.3 Land consolidation in today's Slovakia

In the year 1991 the Act No. 330 on land consolidation, arrangement of landed property, land register offices, land fund and land communities has been put into force. In accordance with this Act by the term land consolidation are understood consolidation, division, dislocation and arrangement of lots on the basis of ownership and land use relations and related execution of the field, communication, water control management, reclamation and fertilization measures. At the same time in the field are established also ecological measures in order to rationalize agricultural operation conditions and to secure stability and aesthetic look of agricultural land.

In accordance with that Act the role of the state that is connected with the restoration of function and arrangement of landed property is provided for by district offices that perform state administration in section of land consolidation (hereinafter referred to as land departments).

Land consolidation is, as a rule, carried out at a time in the whole cadastral area that makes up the perimeter of land consolidation. In land consolidation participate the owners and users of the lots that are subject to land consolidation, the owners of the rest of agricultural real estate, which can be found within the perimeter, persons, whose ownership or other rights may be affected by land consolidation, and the Slovak Land Fund. The Slovak Land Fund administers agricultural and forest real estates and the lots that are not attested by the title to the real estate. It represents unknown owners and owners, who did not claim their rights.

When the decision on the licence or land consolidation decree is valid in law, the land department starts work in the field of the valuation of lots and permanent vegetation, making-out the land owners and users' list and procurement of other necessary initial grounds. On this basis the register of original state is compiled; it consists of geodetic and descriptive data on the lots and related legal relations. Land department will issue the register of original state and deliver every known participant the entry of his

lots that are subject to land consolidation, including joint ownership lots and their price. The participants may lodge objections. The list of lots, whose rights in the land consolidation are represented by the Slovak Land Fund, is a special part of the register of original state and remains accessible for public consultation during the period of 10 years.

For the lots that are subject to the land consolidation the owners are due to receive "compensation", corresponding to the price of the lots in the form of substitute lots or in money. In choosing the substitute lots the land department takes into consideration also operational and economic conditions of all participants and circumstances, which have considerable influence on the use, valuation and revenue of the lots. The kind, acreage, value and economic state of substitute lots should correspond to original lots, while the advantages that are gained by land consolidation are taken into consideration as well.

When initial background and declared principles of substitute lots location are approved, the land department orders the development of the land consolidation project. The project contains the draft of new arrangement of the territory in the form as follows:

- plans of public and common facilities;
- location of substitute lots, their allotment to owners and the list of compensations in money, or, as the case may be, in securities according to the claims for compensation (dislocation plan);
- local territorial system of ecological stability in the perimeter of land consolidation;

The land consolidation project will be published. The participants in the land consolidation can submit objections within 30 days. If, after the objections had been discussed, the two thirds of participants state their agreement with the project, the project will be approved and proceeded. By the day of the valid decision on the execution of land consolidation project, either the title to the lots or the right for compensation according to the dislocation plan are acquired. The dislocation plan is a document, on the basis of which the changes in real estates cadastre will be performed. The land department will arrange for new dislocation of lots be staken out in the field.

Basic condition for effective solution of the land consolidation project is the solution of ownership relations in the defined perimeter and the new measurement of real estates physically existing in the field. At present, however, this requirement is fulfilled at a very few places, therefore a complex land consolidation project itself includes the solution of titles to real estates in rural area and also the measurement of the changes, when real situation in the field and cadastral map are compared. This phase of the project, due to its complexity, takes up from 30 to 40% of time fund and financial expenses estimated for the whole project.

It is necessary to bear in mind that by the results of land consolidation through valid decision of the land department the titles to lots are established, changed and cancelled and therefore it is extremely important to observe all legal provisions and also special legislation for real estate cadastre. Successful implementation of land consolidation provides the requirements of real estates market development and requirements of real estates ownership guarentee in law-abiding state.

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