

Modelling the rural land transaction procedure

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Abstract

This paper addresses sale as a specific case of real property transfer. Special emphasis is on the administrative procedure and legal framework of such property transactions in Slovenia. The article is concentrated on the rural land sale with the main aim to present and expound the models of transactions for international comparisons, and for comparisons of the real estate transfer among different real estate markets. A detailed transfer of the ownership of rural land is presented, where standardized modelling language UML serves for visualization of the models. The outcomes of this research are presented on different UML diagrams. Besides the comprehensive presentation of the transaction procedures also the roles of involved actors are introduced. The modelled transaction could be the base for the simplification and optimization of the rural land transaction procedures; and consequently, development of the rural land market. Furthermore, such models can serve as the starting-point for the rural land market analysis, providing basic information on spatial planning, progress in land policy, land management, real estate appraisal and property taxation.

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Introduction

Efficiency and transparency of the real property market have become very important factors in the global competitive market and in advanced real estate management. Real properties have a number of characteristics, which make them different from other assets that may be traded on the market. Besides the economic perspectives, such as immovability, limited supply, geographic location, heterogeneity, planning regulations that affect the permitted use and consequently influence the value, the legal framework of the title transaction plays a specific role in the real property market. The real property market depends on the efficiency of public administration—either in industrialized countries or in developing countries. Effective real property markets are of vital importance for the economic and social development and welfare in

any country. In the book, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere* else (de Soto, 2000), the author discusses the common economic problem in developing countries, where one of the reasons for it is the underestimated real property value. The main consequence is inactive real property market and for such countries real estates present dead capital (de Soto, 2000). Land markets are sought to contribute in the economic growth most of all directly, in the way of capital formation.

The real property market provides a forum within which relationships among people, real property and finance are adjusted through market-based mechanisms. It presents the base for the transfer of rights attributed to the tangible assets: land and buildings, out of which sales transactions are considered as most significant in case of an active real property market. Nowadays, there is a global market imperative to focus on. The optimization of transaction procedures has become more important than ever, with the main aim of providing a secure, transparent and efficient real estate market. Moreover, the internationalization of property investment in the last decade has given rise to a

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need for international comparison of procedures for real property transaction.

In general, real property transfer procedures are prescribed through legislation, administrative regulations and professional norms. The main prerequisite for an effective functioning of the real property market is a carefully coordinated legal system that provides transparency, simplicity and legal security. Any real property transaction system must support public and economic interests. The state is responsible for the legal and regulatory framework within which the land markets operate. For this reason, various studies have analyzed regulatory, administrative and legal constraints in land markets. Furthermore, land transaction and cadastre procedures have attracted much attention recently. The complexity of the transfer process, where professions like lawyers or notaries, geodetic surveyors, and valuers support the owners and authorities with their expertise, has to be particularly denoted. The importance of the research from the point of view of formal modelling or with a view to chart the interrelated technical, legal and organizational aspects has been emphasized (Stuckenschmidt et al., 2001). In the framework of European COST G9 Action ‘Modelling Real Property Transaction,’ the processes involved in transactions in land and other real estates within some of the European countries were analyzed. The research focused on cadastral procedures (sale, subdivision, amalgamation, reallocation, etc.) and sales procedures of real properties. The main objective of COST G9 action was to improve the transparency of real property markets and to reduce the costs of real property transactions by preparing a set of models of real property transactions (Stubbjær, 2002; Zevenbergen and Stubbjær, 2005). For modelling the above-mentioned procedures, the Unified Modelling Language (hereinafter, UML) was chosen as the formal descriptive and lexical language. The examples of Šumrada (2002, 2006), and Arvanitis and Hamilou (2004) present the transaction procedures mainly on activity diagrams and use-case diagrams, respectively, but there was no special attention paid to the particularities of rural land transactions.

Concerning the rural land, several authors dealt specially with the problem of rural land market activities in the countries of transition and in third world countries. While urban land markets directly contribute to the economic growth, in agriculture the indirect impact is highly important, where a sound market moves land titles to those operators, who can manage an optimal combination of inputs including land for production. The rural land market represents a specific real property market, which is less active and often neglected in the developing countries. For the Eastern European Countries several reports are available on the land reform, the farm restructuring process, as well as on the various policies and regulations that have been implemented and published in the framework of international organizations, such as FAO, the World Bank and OECD: ACE (1999); Csaki and Lerman

(2000); Giovarelli and Bledsoe (2001). However, much less information is available on the rural land markets. According to Dale and Baldwin (2000), in many EEC countries rural land values are so low that owners are unwilling to sell. Partly, there are still major disincentives that arise due to structural impediments in the market arising from the socialist legacy. In addition, the transfer of the real property in the case of rural land is often regulated with special rules that make the land market even less attractive and consequently less active. In this respect, the rural land transaction seems to consist of numerous interacting procedures with several actors. A suitable accession to the research of this problem domain can be the demonstration of the conveyance of property rights by means of models.

The paper is intended to introduce the modelling method of the real property transaction procedures as an appropriate and advanced approach to a better understanding of the public administration processes, illustrated in the case of rural land transactions in Slovenia. As stated by Dale and Baldwin (2000), the development of a functioning land market requires, among other things, minimum restrictions on property use, consistent with the common goods, simplicity of the transfer of property rights and transparency in all relevant matters. The focus of this study was primarily on institutional support and legal background of land transaction. Various forms of property transfer are known, such as sale, gift, inheritance and exchange. The article is restricted to the sale of rural land as an example of property transfer. The results of our work are correlated UML diagrams and formal descriptions that illustrate the rural land transaction procedure for the Slovenian case. The aim of this contribution is to provide a greater understanding of the necessity for a closer and more systematic intergovernmental coordination and cooperation in public administration concerning real property transactions.

Methods of the research

The modelling language includes semantic concepts, notation and guidelines, and therefore it is appropriate for capturing information about the static structure and dynamic behaviour of an arbitrary system. The UML, developed in mid-nineties by Rumbaugh, Booch and Jacobson, was adopted by the Object Management Group (OMG) as a standard in 1997. The OMG assumed responsibility for further development of the UML standard. Originally, UML was designed for modelling software-intensive systems, which means specification, visualization, construction and documentation of software systems with the main aim to understand, design, browse, configure, maintain and control information about such systems (Rumbaugh et al., 2004). Today, UML is a formal general-purpose visual modelling language that is designed to be independent of any development methodology (Eriksson et al., 2004).

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