

The Real Estate Administration and Market in the Republic of Serbia – Possibilities of improvement

Marija RASKOVIC, Serbia

Key words: land administration, real estate market, Republic geodetic authority, Serbia

SUMMARY

Republic Geodetic Authority (RGA) of the Republic of Serbia is an institution responsible for state survey, cadastre and land registration, mapping, geodetic networks, NSDI, land consolidation, address register, real estate mass valuation and other assignments defined by the law. The RGA is putting a lot of efforts in modernization of working procedures and processes as well as modernization of property system in Serbia. In these efforts the RGA is following internationally recognized guidelines.

One of the roles of the RGA, as an institution responsible for property system, is support to real estate market in the Republic of Serbia. Today, RGA does not have direct connection with an information from real estate market. That is consequence of RGA position in land administration system. The Real Estate information from market passing through two institutions before it comes to the RGA. Double systems and information related to real estates are existing in different authorities in such situation. The real estate market is harmed and not supported by such land administration system, so subjects related to real estate market do not have needed services.

A solution is set up of the land administration system with respect of rule “one stop shop”. A central institution in such land administration system has to be the RGA. This work will among other try to provide an overview of changes in order to set up good land administration system in the Republic of Serbia.

REZIME

Republički geodetski zavod (RGZ) Republike Srbije je institucija odgovorna za državni premer, katastar nepokretnosti i upis prava, kartografiju, geodetske mreže, NIGP, komasaciju, adresni registar, masovnu procenu vrednosti nepokretnosti i druge poslove definisane zakonom. RGZ ulaže puno napora u modernizaciju radnih procedura i procesa kao i u modernizaciju sistema nepokretnosti u Srbiji. U ovim naporima RGZ prati internacionalne preporuke.

Jedan od zadataka RGZ-a, kao institucije odgovorne za sistem nepokretnosti, jeste podrška tržištu nepokretnosti u Srbiji. Danas, RGZ nema direktnu vezu sa informacijama sa tržišta nepokretnosti. To je posledica pozicije koju RGZ zauzima u sistemu upravljanja nepokretnostima. Informacija o nepokretnosti sa tržišta prolazi kroz dve institucije pre nego

stigne u RGZ. Dupli sistemi i informacije vezane za nepokretnosti postoje u različitim institucijama u ovoj situaciji. Tržište nepokretnosti trpi štetu i nije podržano ovakvim sistemom upravljanja nepokretnostima, a učesnici na tržištu nepokretnosti ne dobijaju potrebne usluge.

Rešenje je postavljanje sistema upravljanja nepokretnostima u skladu sa pravilom "sve na jednom mestu". Centralna institucija takvog sistema mora biti RGZ. Ovaj rad će između ostalog pokušati da prikaže pregled promena potrebnih da bi se uspostavio dobar sistem upravljanja nepokretnostima u Republici Srbiji.

The Real Estate Administration and Market in the Republic of Serbia – Possibilities of improvement

Marija RASKOVIC, Serbia

1. INTRODUCTION

The Republic Geodetic Authority (RGA) of the Republic of Serbia is an institution responsible for state survey, cadastre and land registration, mapping, geodetic networks, NSDI, land consolidation, address register, real estate mass valuation and other assignments defined by the law¹. The Real Estate Cadastre is consisting of real estate information and information of rights related to real estates. Process of joining of the Land Cadastre (Land information register) and Land Book (register of rights related to real estates) is almost completed in the Republic of Serbia. The RGA is putting a lot of efforts in modernization of working procedures and processes as well as modernization of property system in Serbia. In these efforts the RGA is following internationally recognized guidelines as for Cadastre is “Cadastre 2014”. RGA made transferring property quicker by offering an expedited option. This moved the Republic of Serbia in “Doing Business” ranking related to property registering from 98 position in 2011 to 39 position in 2012.

One of the roles of the RGA, as an institution responsible for property system, is support to real estate market. Today, RGA does not have direct connection with information from real estate market. That is consequence of RGA position in, by state laws defined, land administration system. The Real Estate information passing through two institutions before it comes to the RGA. The RGA is not in situation to have information on the market changes and other changes related to properties’ transfer in proper time; immediately after it is happen. Further more, registration depending on parties application. Other authorities get information on changes occurred by property transfer before RGA. Double systems and information, related to real estates, are existing in different authorities in such situation. Furthermore, each authority have uncompleted real estate’s information as such systems are created to satisfy specific needs in state and society, and to be completed they need a huge financial funds. The real estate market is harmed and not supported by such land administration system, so subjects related to real estate market do not have needed services and security.

Economically looking, the Republic of Serbia and any other country, is not in situation to pay a lot of different and uncompleted systems related to properties. As Peter Dale and John McLaughlin are referring in the book Land Administration “The central issue is not whether countries can afford good land administration system but whether they can afford to live without one”. Effective land administration is fundamental for ensuring formal property rights and supporting different needs and, of course, real estate market.

¹ Law on ministries (official gazette no 16/2011), Law on state surveying and real estate cadastre (official gazette no 72/09, 18/10)

A solution is set up of the land administration system with respect of rule “one stop shop”. A central institution in such land administration system has to be the RGA. Legal framework related to the land administration field should be changed. Consensus and support on land administration improvement in the Republic of Serbia have to exist on the Governmental level. The Government, through special body should support the RGA in taking up central and strong position in land administration system. Only in this way the RGA can have accurate and updates property information that will serve state and society as a whole for various purposes.

2. ADMINISTRATION AND LEGAL FRAMEWORK IN CONVEYANCE

The process of conveyance in the Republic of Serbia is presented in Figure 1. The main characteristic of the process is long path from moment of conveyance in reality until registering of the title change in the Real Estate Cadastre.

The contract or other document on transfer title until registration of the title change travels, by parties or by involved authorities, to four authorities. Involved authorities are Courts, Taxation Authority, Revenue Authority and Republic Geodetic Authority. Before Real Estate Cadastre establishing there were five authorities (plus Land Book for rights registration).

The basic laws defining path from conveyance to registration of rights are Property law (Official Gazette No.6/80, 36/90, 29/96 i 115/2005), Law on transfer of real estates (Official Gazette No.42/98, 111/2009), Law on property taxes (Official Gazette No. 26/01, 45/02, 80/02, 135/04, 61/07, 5/09, 101/10 and 78/11) and Law on State Land Surveying and Real Estate Cadastre (Official Gazette No.72/09, 18/10).

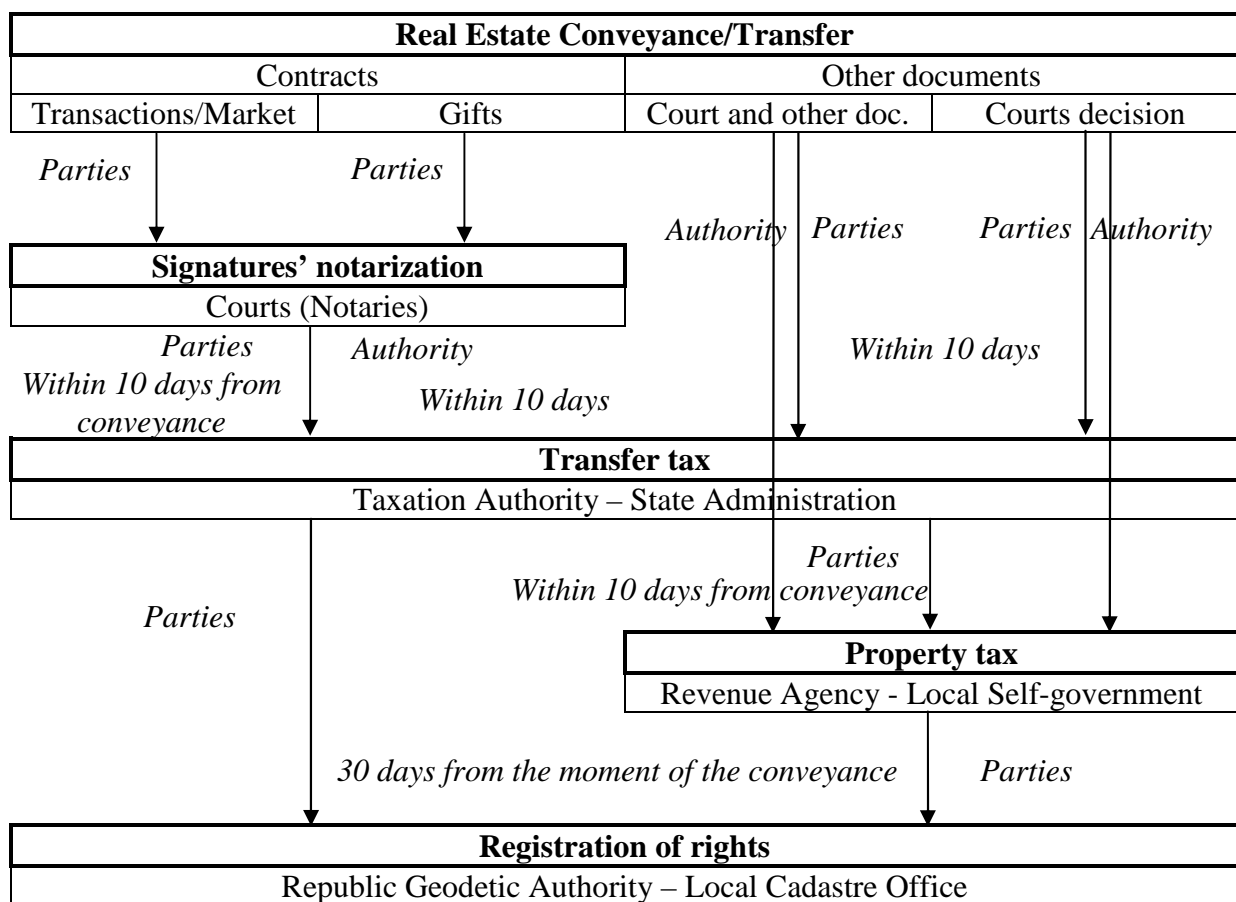


Figure 1: Conveyance process in the Republic of Serbia

By the Law on conveyance of the real estates contract should to be in written form and signatures' have to be notarized by local Basic Court to have a legal force. At the same time,

TS09L - Land Administration and Sustainable Development, 5780

5/12

Marija Raskovic

Real Estate Administration and Market in the Republic of Serbia – Possibilities of improvement

FIG Working Week 2012

Knowing to manage the territory, protect the environment, evaluate the cultural heritage

Rome, Italy, 6-10 May 2012

in front of the court may be recognized the legal effect of contracts on the real estate transactions without notarization by the court (if the contract is fulfilled as a whole or predominantly and it is not harmed the pre-emption right). Under way is the procedure of establishing the notary instead of the courts for notarization.

The court or other authority is required to send one copy of the original contract or decision to the Local Tax Office (Law on property taxes) and Local Revenue Office (Law on real estate transfer) within ten days from its notarization or validity.

Central position has the Taxation Authority and Revenue Agency. Legally, the administration is set up in order for these authorities to have information on conveyance in short period of time. When it comes to property tax, tax liability arises from the date acquisition of rights. For any change tax payer is obligated by the law to submit tax application in ten days. By the Law on property taxes (Article 38a) registration of rights on real estates in cadastre or other public registers is forbidden without tax verification related to transaction tax.

Summarizing, even if registration of rights in the Real Estate Cadastre is obligatory, it can not be done without both verifications; by court and by taxation authority. Submission of application for recording change to real estate have to be within 30 days from the date of the change. Neither one involved authority is not obligated to notify the Local Cadastre Office that real estate transfer is occurred. Despite great efforts to merge real estate records with records related to rights on them all the real estate are not registered in Real Estate Cadastre. Accuracy and compliance with reality, when it comes to property and property rights register, depend on the will of the citizens (physical and legal persons).

A little bit more then 60% of transfers arrives to Taxation Authority to apply for transaction tax in the same year when it is occurred. Around 20% arrives next year to Taxation Authority². To have legal effect on third persons registration in Real Estate Cadastre should be done. For transfers to arrive on registration to Real Estate Cadastre it takes a little bit more time. Titles are not secured until are not transferred completely. And more information on real estates can not be serving for different purposes in state and society on proper way, due to problems with reliability and completeness.

For the purpose of ensuring the updatedness of Real Estate Cadastre, Republic Geodetic Authority introducing, in the Law on state surveying and cadastre, very modestly, article on officially follow up changes to real estate. At the same time (same article), is introduced obligation for involved authorities to submit documents having impact on real estate, but without time limit. That part of Law is only part of the paper not of practice.

It is of vital importance to collect and to assure collection of the taxes from property. Still, arrangement in favor of tax collection but harming property right registration cannot be the best solution. Effective land administration is important in order to ensure formal property rights. If there is lot of steps that parties in conveyance have to complete to register new title to property and if it is time consuming process it can not be good administration.

² Statistics calculated by Republic Geodetic Authority from Taxation Authority data

3. REGISTERS RELATED TO REAL ESTATE AND CONVEYANCE PROCESS

The Courts are keeping records on real estate contracts that are submitted for contractor's signature verification in special register from January 2010³. The purpose is secured real estate transfer, respectively the prevention of multiple sales. In the register is not included information on price but are included other contract data. By making such Register Signatures' notarization procedure is expanded. One step before notarization is check if the real estate in transaction was sold before by the same seller. The Register has records on real estates. The courts' special register does not have connection with Real Estate Cadastre records or Address Register records. The population register does not exist in the Republic of Serbia so the Courts' special register miss the connection with exact and validated population records.

There is no special register on court judgments, or court and other documents related to conveyance.

Taxation Authority is keeping records from tax procedure related to transaction tax. The purpose is collection of transaction tax. There are records on contract, real estate in transfer, tax payer and tax base. The most detailed group of information is one related to tax payer. These records does not have connection with courts' special register on notarized contracts, or Real Estate Cadastre, or Address Register. It occurs that full and proper identification of real estate is not registered.

Revenue Agency is separated from Taxation Authority, belonging to local self-government. As it is responsible for property tax with decision on tax base and tax rate⁴, Revenue Agency is keeping records on real estates that are important for determining the property tax (identification, basic information and quality information). There is no connection with court special register or Real Estate Cadastre or Address Register. More real estates are paying property tax than are registered in Real Estate Cadastre.

Republic geodetic authority is registering real estates and property rights in the Real Estate Cadastre. Naturally, a lot of information on real estates is in the Cadastre. Related to real estate conveyance, in Republic Geodetic Authority in development is Sales Price Register for the purposes of mass valuation⁵. For the establishment of the Sales Price Register, Court and Taxation Authority are obligated to deliver information from the transfer contracts to Republic Geodetic Authority⁶. There is no time limit in this provision. The Sales Price Register has all information related to transaction contract and to a large extent has the same information as Special Courts' register on notarized contracts. Additionally, the Sales Price

³ Article 4a. paragraph 8. 2009. Law on transfer of real estates. (official gazette no.42/98, 111/2009)

⁴ Article 5., Paragraph 2., and Article 11. 2011. Law on property taxes. (official gazette no. 26/01, 45/02, 80/02, 135/04, 61/07, 5/09, 101/10 and 78/11)

⁵ Article 152. Paragraph 1., 2010. Law on State Land Surveying and Real Estate Cadastre. (official gazette no.72/09, 18/10)

⁶ Article 152. Paragraph 2 and 3., 2010. Law on State Land Surveying and Real Estate Cadastre. (official gazette no.72/09, 18/10)

Register has data related to quality information for the property in transaction. The quality data are to some extent similar to data stored in Tax Revenue databases. This register is related with Real Estate Cadastre and Address Register.

By looking beyond the conveyance process, information on real estate and their quality are stored, also, in Statistical Authority by census. Some of information on quality of real estates, especially for dwellings is keeping in this Authority. The purpose of this information is statistics of population, households and dwellings. Real estates are not identified in these data as these data are related to census unit (circle). There is no connection with other registers related to real estate data and it is hard to use statistical data for other purposes.

A lot of registers that keeping information on real estates exist in the Republic of Serbia, with many similar data, and almost completely without any connection with each others. Serving for different purposes point to poor land administration.

4. IMPROVEMENT POSSIBILITIES

Any improvement have to start with removal of the prohibition of registration in Real Estate Cadastre without transfer tax paid. Instead, put a legally responsibility to RGA to inform Tax Authority on any change in the real property title in specified time frame.

Solution 1: Improvement

Involve Authorities in providing information to RGA (REC and SPR registers) relevant to real estate condition and titles. Introducing of obligation for courts and other authorities with capacity to decide on rights to inform RGA in specified time frame. Additionally, introducing of obligation for Taxation Authority to inform RGA if information on change on real estate or change on title on real estate comes first to Taxation Local Offices.

Also, it has to be reducing in the time limit for physical and legal persons to submit the application for registration of a change to the Republic Geodetic Authority. The time limit of ten days can be suitable.

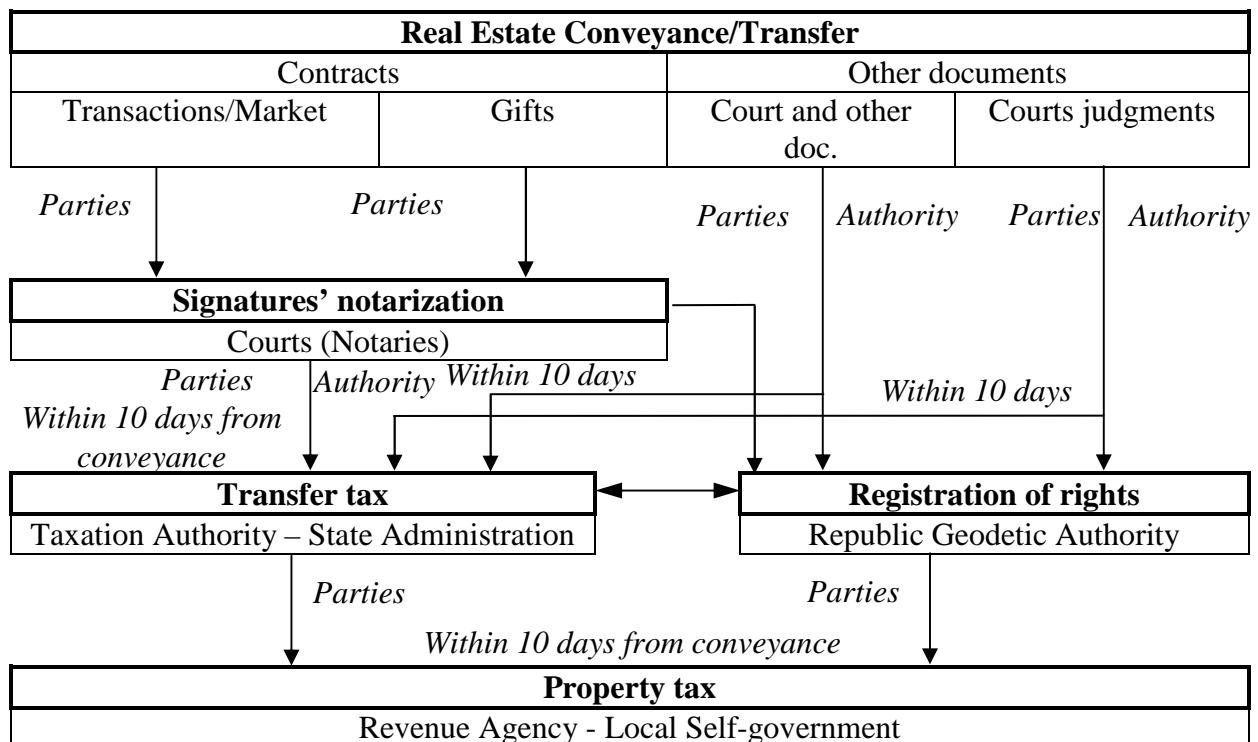


Figure 2: Improvement in conveyance process in the Republic of Serbia

Solution 2: Radical cut or "one stop shop"

Move the notarization of contract to the Cadastre offices and put a responsibility to RGA to inform Tax Authority and Revenue Agency on any change in the real property title in

specified time frame. Further more, web application for both tax liabilities can be implemented. On such way, for transaction parties "One stop shop" for conveyance process is formed. Parties are going just to one place. The Real Estate Cadastre has a good base to be accurate and informed on each transfer of rights on real estate. Sales price register has a updated information and can serve together with Real Estate Cadastre in increasing of security in market. Together, information related to properties (Real Estate Cadastre) and related to real estate market (Sales Price Register) can serve to several other purposes with saving money needed for many registers for specific needs.

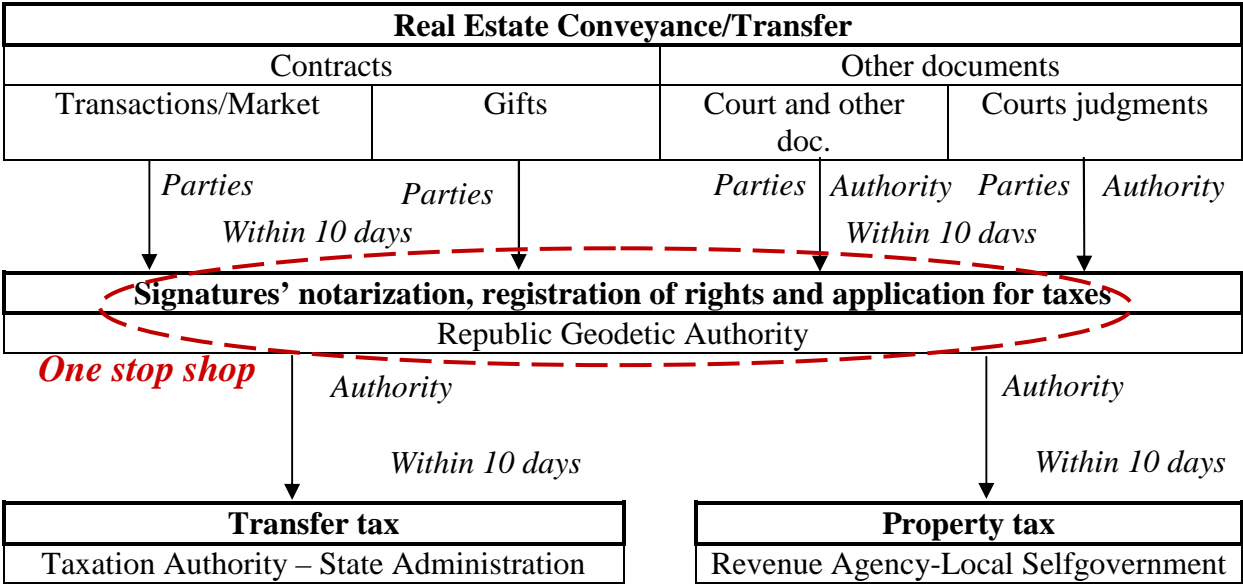


Figure 3: Radical cut in conveyance process in the Republic of Serbia

5. CONCLUSION

The legislation is key, and needed is careful creation of changes in legislation in order to achieve improvements in conveyance to registration process.

The Real Estate information has to be at one place, serving for different purposes. Prevent data duplication, as well as duplication of whole systems for real estates and transactions.

Central institution has to be Republic Geodetic Authority as a holder of real estate information and rights related to them.

Clear and reliable information on real estates is proper support to real estate market. Together with clear, reliable and easily accessible market data making strong and adequate support to real estate market. Even more, has extremely strong influence on other fields important for state and society.

BIOGRAPHICAL NOTES

Marija Raskovic, Working in the Republic Geodetic Authority of Serbia

2010 - present: Department for mass valuation of real estates

2006 - 2010 Coordinator for Sida Project “Capacity Building for Serbia Real Estate Cadastre and Registration” and participant in subproject “Study of modern valuation systems”

2003 - 2006 Professional and Technical support in Regional Cadastre Office Pancevo

CONTACTS

Marija Raskovic

Republic Geodetic Authority

Bulevar Vojvode Misica 39

Belgrade

SERBIA

Tel. + 381 11 715 2736

Email: mraskovic@rgz.gov.rs

Web site: www.rgz.gov.rs