



Registradores  
DE ESPAÑA

THE COORDINATION BETWEEN THE PROPERTY  
REGISTRY AND THE CADASTRE IN THE AFTERMATH OF  
LAW 13/2015 IN SPAIN

THE DAWN OF A NEW FORM OF RELATIONS

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## THE PREAMBLE TO LAW 13/2015

.-ALTHOUGH THEIR LEGAL NATURE AND COMPETENCES VARY, THE PROPERTY REGISTRY AND THE CADASTRE OPERATE IN THE SAME FIELD: REAL ESTATE

.-IT IS NECESSARY FOR BOTH INSTITUTIONS TO COORDINATE THEIR EXISTING DATA, WITH A VIEW TO BETTER IDENTIFYING PROPERTIES AND IMPROVING THE QUALITY OF SERVICE OFFERED TO CITIZENS AND GOVERNMENT AGENCIES



.-BY VIRTUE OF LAW 13/1996, OF 30 DECEMBER, BOTH INSTITUTIONS BEGAN TO COORDINATE THEIR DATA. LAW 13/1996 INTRODUCED TWO FUNDAMENTAL CHANGES:

.-1. THE ASSIGNMENT OF A CADASTRAL REFERENCE TO EACH PROPERTY AS AN ELEMENT OF IDENTIFICATION AND EXCHANGE

.-2. TO INCLUDE IN THE REGISTRY, AS A PREREQUISITE FOR THE REGISTRATION OF PROPERTY, THE CADASTRAL REFERENCE (BOTH DESCRIPTIVE AND GRAPHIC)

.-THE PROPERTY REGISTRY AND THE CADASTRE MUST WORK TOGETHER SO AS TO ENSURE A TWO-WAY EXCHANGE OF INFORMATION. WHY?

- THE PROPERTY REGISTRY: SO THAT IT BE ABLE TO DETERMINE THE PRECISE BOUNDARIES OF THE REGISTERED PROPERTY

- FOR THE CADASTRE: SO THAT IT BE AWARE OF ANY CHANGES AFFECTING ANY GIVEN PROPERTY AS A RESULT OF AN EVENT, TRANSACTION OR LEGAL ACT

# FROM THE POINT OF VIEW OF THE REGISTRY

## THE PROPERTY

THE PROPERTY, DEFINED AS THE LIMITED PORTION OF LAND COVERED BY THE PROPERTY RIGHT, IS ONE OF THE THREE ELEMENTS OF SUCH RIGHT, i.e. THE OBJECT. TOGETHER WITH THE SUBJECT AND THE CONTENT, THEY LIE AT THE CORE OF THE **SPECIALTY PRINCIPLE**, WHICH PLAYS A FUNDAMENTAL ROLE IN GUARANTEEING PUBLICITY OF THE REGISTER

## ITS PHYSICAL REALITY

OBJECTIVE SOUGHT BY THE REFORM: CONSISTENCY BETWEEN THE DESCRIPTION OF THE PROPERTY IN THE REGISTRY AND ITS PHYSICAL REALITY (ART. 198 MORTGAGE ACT)

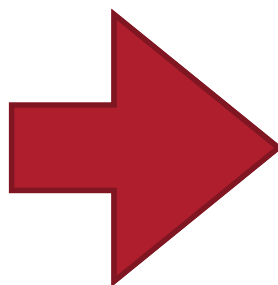
## PROPERTY CONFIGURATION

Descriptive elements

† LOCATION

† SURFACE

† BOUNDARIES



PHYSICAL REALITY OF THE  
PROPERTY



# CONSISTENCY BETWEEN THE DESCRIPTION OF THE PROPERTY IN THE REGISTRY AND ITS PHYSICAL REALITY

- .-AVOIDS DOUBLE REGISTRATION
- .-PROVIDES LEGAL CERTAINTY

EXTENDING THE EFFECTS OF THE MIRROR PRINCIPLE TO THE DESCRIPTIVE DATA OF THE PROPERTY IS ONLY POSSIBLE IF THERE EXISTS CONSISTENCY BETWEEN THE DESCRIPTION OF THE PROPERTY IN THE REGISTRY AND ITS PHYSICAL REALITY

## THE LAW PROVIDES TWO WAYS OF DETERMINING THE PHYSICAL REALITY OF THE PROPERTY:

.-1- THE CADASTRAL GRAPHICAL BASE, PROVIDED THAT THE APPLICANTS EXPRESS THAT THE CADASTRAL GRAPHIC REPRESENTATION IS CONSISTENT WITH THE PHYSICAL REALITY

.-RELEVANCE OF ART. 18 OF THE CADASTRE ACT

.-PROCEEDINGS (SUCH AS REGISTRATION)  
WHERE THE GRAPHIC REPRESENTATION IS ONLY  
THE CADASTRAL ONE

.-2 THE ALTERNATIVE GRAPHIC BASE, PROVIDED THAT THE LEGAL CHANGES TO THE PROPERTY HAVE NOT BEEN INCLUDED IN THE CADASTRE, OR IF THE APPLICANTS CONSIDER THAT THE PHYSICAL REALITY OF THEIR PROPERTIES IS DIFFERENT TO THE CADASTRAL DESCRIPTION, FOR INSTANCE, THE PROCEEDING PROVIDED FOR IN ARTICLE 199.2 OF THE MORTGAGE ACT

# REVIEW OF THE GRAPHIC REPRESENTATION BY THE REGISTRAR

.-1-BE CERTAIN AS TO THE IDENTITY OF THE PROPERTY, SO THAT THE GRAPHIC REPRESENTATION REFLECTS THE SAME PORTION OF LAND AS PROVIDED FOR IN THE REGISTRY'S LITERARY DESCRIPTION: THIS IS NOT ALWAYS EASY TO ASCERTAIN, ESPECIALLY IN CASES OF PERSONAL BOUNDARIES

.-2-THAT THE GRAPHIC REPRESENTATION OF THE PROPERTY UNDER REVIEW IS INCONSISTENT WITH THE GRAPHIC REPRESENTATION OF A PRIOR-REGISTERED PROPERTY

.-3-THAT THE GRAPHIC REPRESENTATION DOES NOT INVADE THE PUBLIC DOMAIN

.-4-THAT THERE BE NO COVERT LEGAL TRANSACTIONS BY MEANS OF A FICTITIOUS RECTIFICATION

.-5-THAT THE URBAN AND RURAL TERRITORIAL LEGALITY NOT BE INFRINGED



PHYSICAL REALITY OF THE PROPERTY

=

DESCRIPTION IN THE REGISTRY

=

CADASTRAL GRAPHIC REPRESENTATION

THE PROPERTY AS DEFINED IN THE REGISTRY MAY BE COORDINATED  
WITH THE PROPERTY AS DEFINED IN THE CADASTRE



**THE INCLUSION OF THE CADASTRAL GRAPHIC REPRESENTATION IN THE REGISTRY (i.e. IN THE 'FOLIO REAL', OR SPECIFIC FOLDER ASSIGNED TO EACH PROPERTY) ENTAILS CONSISTENCY, ON A GIVEN DATE, BETWEEN THE PROPERTY AS DEFINED IN THE REGISTRY AND THE PROPERTY AS DEFINED IN THE CADASTRE**

- **THE MIRROR PRINCIPLE EXTENDED TO LOCATION AND GRAPHIC DELIMITATION (SURFACE AND BOUNDARIES), ART. 10 MORTGAGE ACT**

**ART. 10.5 MORTGAGE ACT:**

Once graphic consistency exists between the Cadastre and the Registry, and the graphic representation of the property has been registered, it shall enjoy the presumption, in accordance with article 38, that the property has the location and geographical delimitation set forth in the cadastral graphic representation that has been included in the Registry.

PHYSICAL REALITY OF THE PROPERTY

=

DESCRIPTION IN THE REGISTRY

≠

CADASTRAL GRAPHIC REPRESENTATION

INCONSISTENCY BETWEEN THE CADASTRE AND THE REGISTRY

PROCEEDING TO AMEND THE INFORMATION AVAILABLE IN THE CADASTRE



PHYSICAL REALITY OF THE PROPERTY

=

CADASTRAL GRAPHIC DESCRIPTION

≠

DESCRIPTION IN THE REGISTRY

INCONSISTENCY BETWEEN THE CADASTRE AND THE REGISTRY

PROCEEDING TO AMEND THE INFORMATION AVAILABLE IN THE  
REGISTRY



- SHALL TAKE PLACE BY MEANS OF THE CADASTRAL GRAPHIC BASE

PHYSICAL REALITY OF THE PROPERTY

≠

CADASTRAL GRAPHIC DESCRIPTION

≠

DESCRIPTION IN THE REGISTRY

INCONSISTENCY BETWEEN THE CADASTRE AND THE REGISTRY

PROCEEDING TO AMEND THE INFORMATION AVAILABLE IN BOTH THE REGISTRY AND THE CADASTRE



## BENEFITS

- FOR BOTH THE CITIZEN AND THE INVESTOR: PROVIDES LEGAL CERTAINTY AS TO THE CONTENT OF THEIR PROPERTY RIGHT
- FOR THE REGISTRY: IT HELPS TO AVOID DOUBLE REGISTRATIONS
- FOR THE REVIEW PROCESS BY THE REGISTRAR: ALLOWS HIM/HER TO USE THE INFORMATION STEMMING FROM THE GRAPHIC REPRESENTATION TO UNDERTAKE A BETTER REVIEW
- ALLOWS, IN CERTAIN INSTANCES, TO DISCOVER COVERT TRANSACTIONS
- MAKES IT DIFFICULT TO INFRINGE THE TERRITORIAL LEGALITY
- STRENGTHENS THE REVIEW PROCESS BY THE REGISTRAR



## CHALLENGES AND QUERIES

- RISK OF REGISTERING GRAPHIC BASES THAT ARE NOT IN LINE WITH THE PHYSICAL REALITY OF THE PROPERTY
- ATTEMPTS TO ADAPT THE DESCRIPTION OF THE PROPERTY IN THE REGISTRY TO THE CADASTRAL DESCRIPTION WITHOUT TAKING INTO ACCOUNT THE PHYSICAL REALITY OF THE PROPERTY, WITH THE AIM OF OBTAINING REGISTRATION OR RECTIFICATION
- DIFFICULTIES DERIVED FROM OVERLAPS BETWEEN PROPERTIES. THE SOLUTION TO THIS PROBLEM IS NOT PROPERLY ADDRESSED BY THE *RESOLUCIÓN* OF THE DGRN OF 24 OCTOBER 2016
- IMPACT ON LEGAL TRANSACTIONS ONCE THE GRAPHIC REPRESENTATION OF THE PROPERTY HAS BEEN REGISTERED; THE FACT THAT THE SPANISH SYSTEM IS PREMISED ON THE PRINCIPLE OF VOLUNTARY REGISTRATION. IMPOSSIBLE TO COORDINATE.
- THE CHALLENGE OF REGISTERING DELAYED PARTITIONS OF ARTICLE 47 OF THE MORTGAGE REGULATION
- WILL IT CREATE MORE OR LESS CONFLICTS?
- ADEQUATE INTERPRETATION BY JUDGES AND COURTS OF THE MIRROR PRINCIPLE ONCE EXTENDED TO THE FACTS OF THE PROPERTY

THANK YOU

