

## **CORRECTION OF LAND BOOK. END OF THE MAIN APPLICATION ENHANCEMENT REQUEST. MATERIAL COMPETENCE OF THE COURT**

*Ana Maria CORDOȘ, PhD., Junior University, University "1 December 1918, Faculty of Law and Social Sciences, e-mail- cordosana@yahoo.com*

**Abstract:** *In the context of this article addresses issues one of the classic actions of the land register, that of action for rectification, resulting from the investigation of the regulations, doctrine and jurisprudence on the land book system, including issues such as definition, characteristics, conditions for the exercise and effects the court decision.*

*This action corrective aids, came from the legislature, to provide the specific framework for resolving conflicts arising in connection with registration of subjective rights in the land, having generally a subsidiary, the inclusion or deletion of an entry in the land being made in principle, by non-adversarial way.*

**Keywords:** land registry, cancellation, determination, competence material

### **1. Action in the land book correction**

Rectification action is a legal defense by subjective civil rights, likely entry in the land, which confers on any person whose right is harmed by an incorrect registration, can request removal of unreliability and matching entry with the actual legal situation rights which form the subject entry.

Yet, land book correction is closely related to how does the principle of publicity materials of the book land.

Under this principle the third party acquirer in good faith and for value, which has contracted with confidence in its tabular entry predecessor, presumed by law to be accurate, valid and complete (although it was not), is maintained in its acquisition, acquiring the right the actual effect of entry in the land and its accuracy or inaccuracy of the land to sign onto both the private relationships and public life in the area.

Correction of the book may be ordered land in one of the cases expressly and exhaustively laid down in Art. 34 of Law no. 7 / 1996, republished, respectively:

- Inclusion or instrument under which the entry was made was not valid
- was wrong qualified registered right .
- not the conditions of existence of written law or legal act stopped effects under which the entry was made.
- the inclusion of the land is not consistent with current real situation of the building.

Action is a legal mechanism rectification, imagine the legislature to provide the specific framework for resolving conflicts arising in connection with registration of subjective rights in the land. This mechanism is generally a subsidiary because, in principle, the inclusion or deletion of an entry in the land is about non-adversarial.

## **2. As an illustration of the above, present:**

Through administrative action, the applicant sued the local council called X, requesting that the court order to have:

- cancellation decision taken by the respondent town council X,
- cancellation of the land the particulars of the new cadastral numbers.

In fact, it reasoned that the applicant and respondent City Council, represented by the Mayor, was concluded on 28.07.2000, nr.4636/2000 collaboration agreement, with the object of achieving a unit of organic municipal waste treatment by netriatã receiving and sorting them according to technical solution for waste treatment approved by the defendant.

The contract stipulated in Article 4 of the letter, the agreement of both parties to achieve that objective, the defendant shall provide the applicant's area of 25,000 sqm.

## **3. The amendment**

In Article 16 of. 1 point to, as amended, by agreement of the contracting parties in the amendment nr.6849/30.08.2000 was expressly stipulated obligation to fund contributor, to operate and exploit a technical burial Center (TIC) residue remaining after treatment, and non-recyclable waste, in compliance with Romanian and European safety standards and environmental protection, an area of 10 hectares that was to be made available to the applicant free of charge by the beneficiary, Local Council X.

Emphasizing performance contract, the minutes concluded during the years 2000 and 2001, the Contracting Parties, Local Council X has taught applicants total land area.

The last record, ending the effective delivery of the total area of land on which defendant was obligated to set the location of the individual objectives of each goal area occupied, stall and plot.

By a decision later, ruling that the subject of this case, the defendant, Local Council X, shall, to a new land and lotizare another award to their operation after which the applicant being awarded to only wedge no. LUT 2 for unity, less land area associated with the other goal.

Violation of all obligations under the collaboration agreement concluded with the applicant, the defendant had challenged the decision in managing transmission County Council Y area of 211,766 square meters of land in the public domain of the City of X, it is part of land and the area originally assigned subscription basis permanent contract.

The total bad faith, ignoring the agreement with the applicant, the defendant in collaboration with Y County Council chose to provide this area of land for a new project begun by the two, with the same objective, given that since 2000 there was a contract with the applicant, ongoing, for the same purpose.

Based on the facts, the court pronounced the sentence, allowed an appeal by the applicant, having the meaning of those required, meaning:

- annul the decision taken by the respondent town council X,
- cancellation of the land the particulars of the new cadastral numbers.

## **4. Conclusions**

We appreciate that the court, the procedural and ruled by the same decision on the application end accessory main application, designed to rectify the land, that since the primary object of the dispute in question is the cancellation of the defendant to act unilaterally change

the terms of the contract has initial collaboration done by taking an area of land actually taught the applicant.

The end of action draws the material competence of administrative court in accordance with Article 1 of Law nr.554/2004.

How in the decision challenged in court, ruling that form the main subject of administrative action, has been ordered and entry in the land of the newly created parcels, indicating new cadastral numbers, naturally lead to the cancellation decision restored the previous situation of the parties within the meaning of the terms of cancellation made in the land, which no longer correspond to facts.

Or call the former situation requires and draws to resolve the same issue and the same administrative court, the accessory end of the main proceedings, which is to lotizarea and entry in the land.

Practitioners have expressed on the issue of law and other views: from the second head of claim was raised with the exception of inadmissibility grounds that it is for the administrative court.

It is argued this view in that this head of claim not a key demand applications subsidiary, the reality is different petite case, both independent and in such case both ends of the application draw the material competence of two different instances .

#### **Article 17 C.p.c.**

Accordingly, such material has absolute power, does not work right provided by Article 17 C.p.c., concerning the statutory extension of jurisdiction.

Us himself first opinion where as a two-end application is therefore intrinsic to solve a major application.

#### **5. References**

1. Aurelia Rusu - *Advertising estate. Land Books (2) judicial practice; Publisher: Hamangiu, 2009;*
2. Aurelia Rusu - *Shares of Land Registry. Study of doctrine and jurisprudence, Publisher: Hamangiu, 2008;*
3. Petronela Năsăudean - *Real estate advertising. The land. Comparative Analysis of Law. 7 / 1996 and Decree-Law no. 115/1938, Publisher: Hamangiu, 2009;*
4. Daniel Marius Cosma - *Land Registry. Working procedure. Organizing regional offices, Publisher: Hamangiu, 2007;*
5. Gabriela Florescu, Dana Calinescu - *Action for restitution. Judicial practice 2008-2009, Publisher: Hamangiu, 2009;*
6. *Law no. 7 / 1996, cadastral and real estate advertising, republished*
7. *Legislative Decree no. 115/1938;*
8. *Tax Code;*
9. *Civil Code;*
10. *Law no. 18/1991.*