

SOLVING THE PROCEDURAL STAGE REGARDING THE LAND THAT ARE PENDING AT THE COURTS THROUGH THE CONTRIBUTION OF THE EXPERT IN THE FIELD OF CADASTRE

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Abstract: *In the present Romanian society appeared in a very large number the litigation situations regarding real estate and land. In this respect, the technical expert brings a fundamental contribution because the answers he provides to the requested objectives help the court to solve the case. Litigation occurs mainly between physical persons and between legal / physical persons and state institutions.*

Keywords: *judicial technical expert, cadastre*

1. Introduction

The profession of judicial technical expert is regulated by Law no. 208/2010 amending and supplementing the Government Ordinance no. 2/2000 regarding the organization of the activity of technical and extrajudicial technical expertise. Specialists who may become top legal experts in topography, cadastre and geodesy must have an authorization certificate in this area. Order no. 107/2010 regulates the procedure for the acquisition by the Cadastre and Real Estate Publicity Agency of the authorized quality for the elaboration of the documentation in the field of topography, cadastre and geodesy.

The activity of judicial expertise is of particular importance in the judiciary system, the expert report being a legal means of proof consisting of conducting field investigations, works, calculations, analyzes, assessments and conclusions by a technical judicial expert, from the provision the criminal investigative body, the object of which is the right to property on immovable property, having the role of facilitating a sound judgment leading to the settlement of the dispute between the parties.

Judicial technical expertise is a scientific and practical investigation of facts or circumstances of the case, carried out by a person with specialist knowledge in order to find out the truth, in accordance with and in compliance with the legal provisions. The role of technical expertise is to help find out the truth. In the field of technical expertise in topography, cadastre and geodesy, the objective that can not be missed in any expertise is to identify the location of the property in question. For each court action certain objectives are defined which must be solved for the settlement of the processes and the following will be described in the paper: the action in usucapion, the action of establishing the servitude.

Content of the expertise report

- The introductory part, indicating the name of the institution that commissioned the expertise, the date on which the expert report is to be submitted, the name and surname of the expert and his / her speciality, the scope of the expertise and the questions to be answered by the expert.
- Describing the expertise, objections or explanations of the parties, as well as analyzing these objections or explanations based on what the expert finds. The expert's findings constitute the

most important section of the report and include data, observations, investigations, extracts from the case file

- Conclusions, including the answers to the questions asked and the expert's opinion on the subject matter of the expertise.

2. Case study

The article deals with the presentation of court proceedings to rectify property titles. The situations covered by this case study consist in the inconsistency of the cadastral identifiers registered in the ownership documents TP 95307 / 13.01.1998 and TP 95451 / 11.12.2000 issued by the owner Mocanu Ana.

The discrepancies identified in the expert report to be presented in this article consist of the number of the plot / parcel entered in the legal act and the number of the plot / plot resulting from the measurements and their overlapping on the cadastral plan.

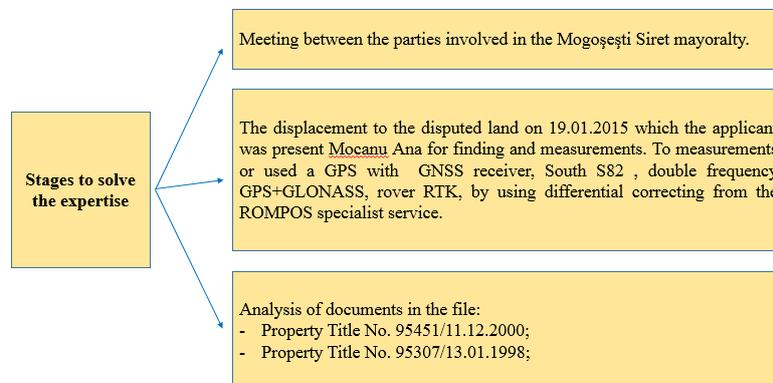
The steps and content of the expertise report are as follows:

- The subject-matter of the case: T.P.
- Parties to the dispute:
Applicant: Mocanu Ana
Parat: County Commission for Land Fund Iasi
- Objective of expertise:

Correction of Property Title No. 95307 / 13.01.1998 and Property Title No. 95451 / 11.12.2000.

- Development of judicial technical expertise

Taking into account the objective of the judicial technical expertise established by the court and the materials available, the following steps were taken:



Responses to the set objectives:

- Identification of misrepresented land areas in the two property titles that are the subject of the dispute.

According to the measurements carried out after the Mocanu Ana limits were identified, the locations of the two buildings in dispute were identified, as follows:

- ✓ It was found that the area of 5000 m² of Property Title no. 95307 / 13.01.1998 (consisting of S = 1700 m² situated on the outskirts of Mogosesti Siret commune in A94 / 130/1 plot, T9 and S = 1000 m² plot A2698, T30, S = 2000 m² in A2686 plot, = 300 m² in the plot CC2685, the T30 located in the village Mogosesti Siret, Com. Mogosesti Siret) is located in the outskirts of the commune Mogosesti Siret in plot A94 / 1/30 in the T9 (figure 1, figure 2).

- ✓ It was found that the area of 6300 m² of Property Title no. 95451 / 11.12.2000 located in the outskirts of Mogosesti Siret commune in plot A94 / 1/88, the T9 tartaul is located in the outskirts of Mogosesti Siret in plot A100, T11 (figure 3, figure 4).

- b. If the identified sites correspond to the real plot plan, indicating the correct location relative to the actual plot plan.

Following the request to the Mogosesti Siret Town Hall to make available the real parcel plans, the address Nr. 1980 / 06.26.2015. According to the address issued by the Mogosesti Siret Town Hall, there is no real plot plan. The identification of the buildings of the two above-mentioned Property Titles was based on the sites indicated by the applicant, sites that were submitted to the Mogosesti Siret Town Hall, according to Figures 1 and 4.

- c. Land plot and OCPI notice.

For the buildings identified and represented in Figures 1 and 4, technical documentation will be prepared to be submitted to the OCPI for their approval.

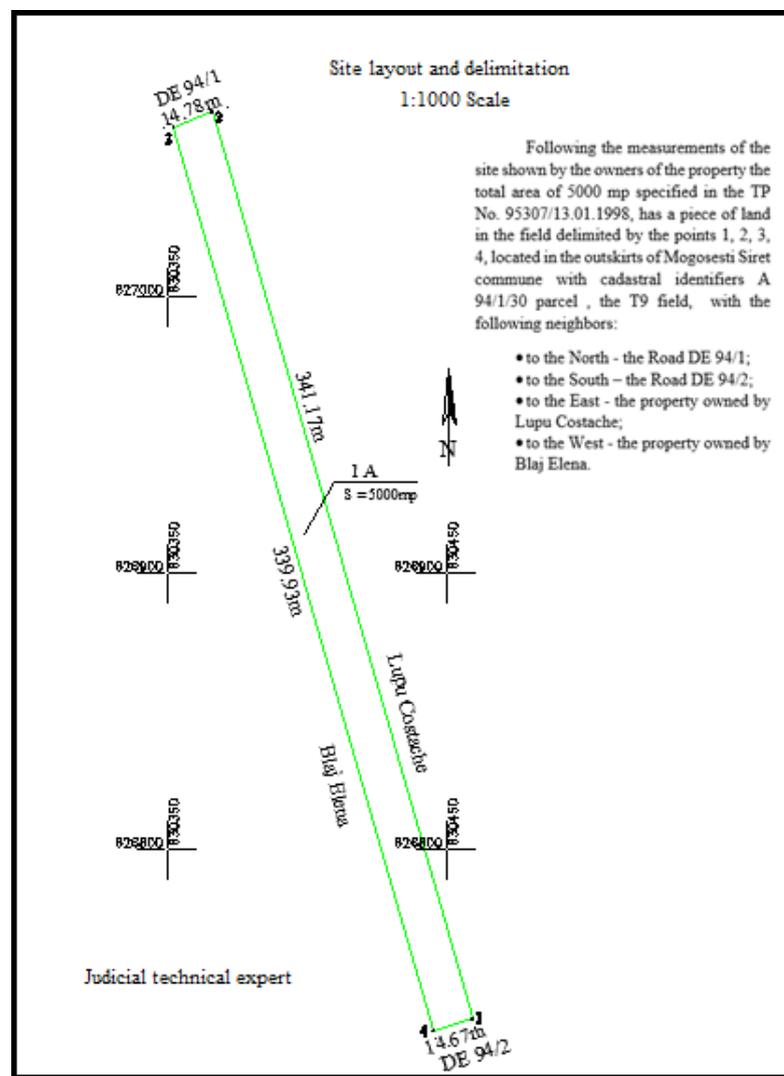


Fig.1. Site layout and delimitation of the property of 5000 m²

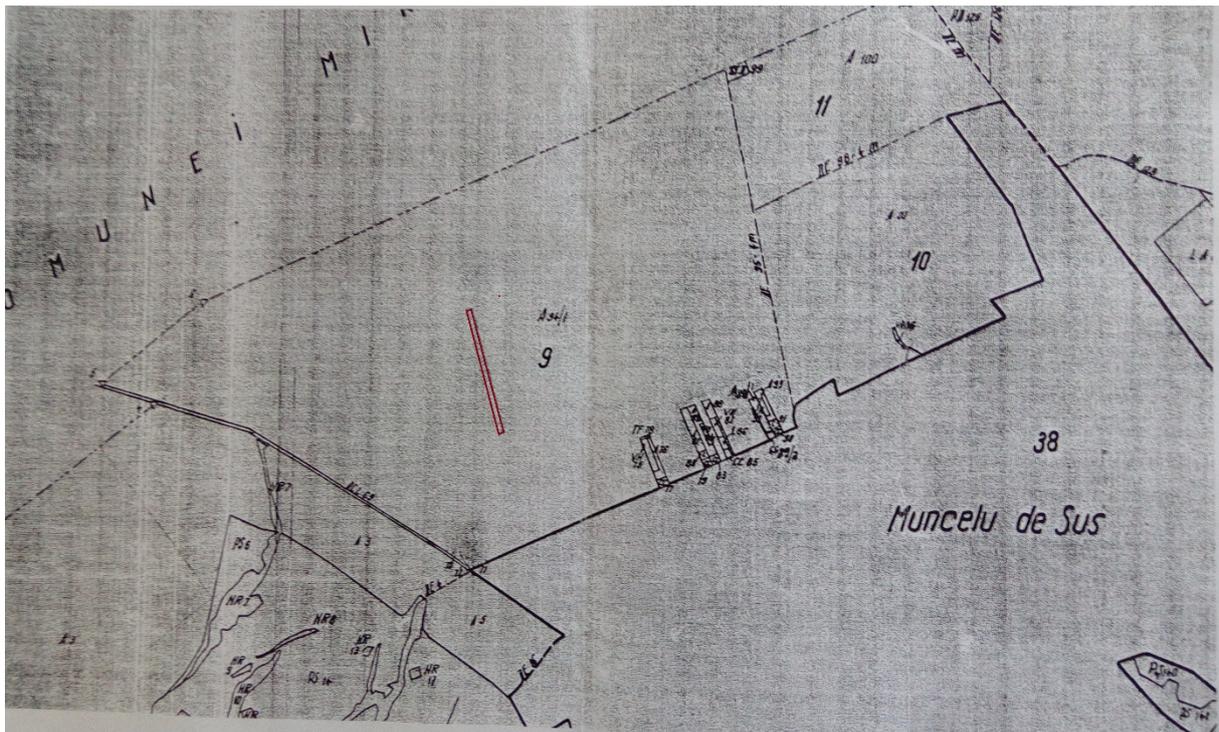


Fig. 2. Section of the cadastral plan is located outside the built-up area of the Mogosesti

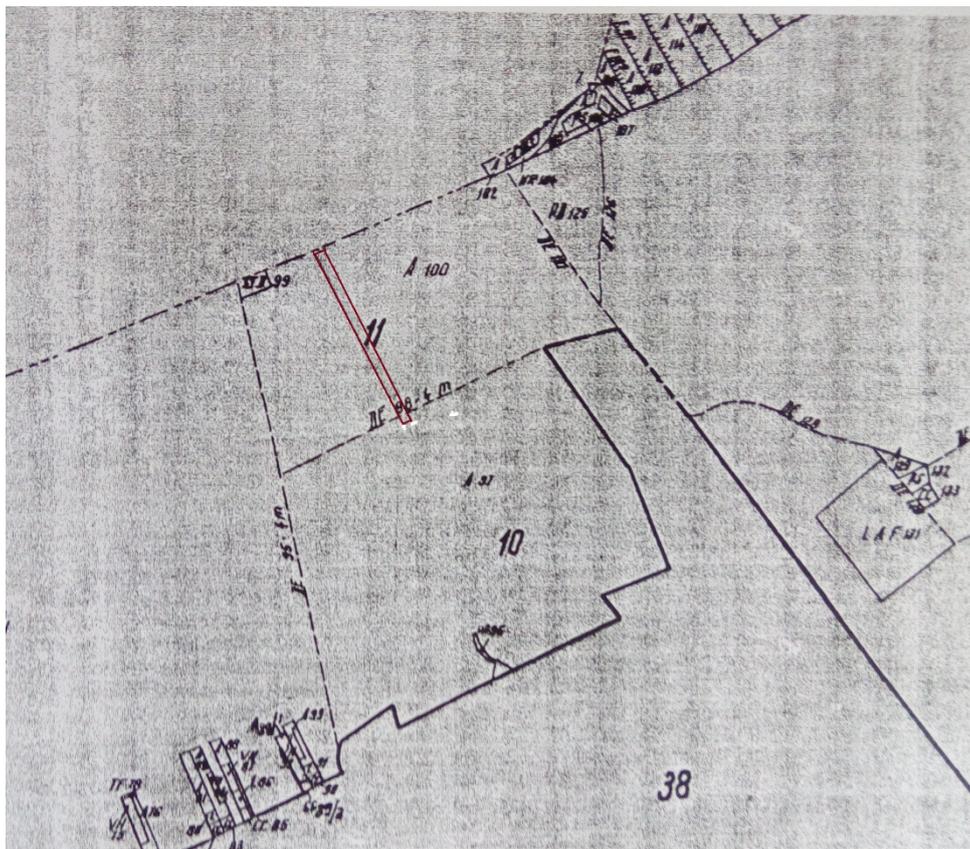


Fig. 3. Section of the cadastral plan is located outside the built-up area of the Mogosesti

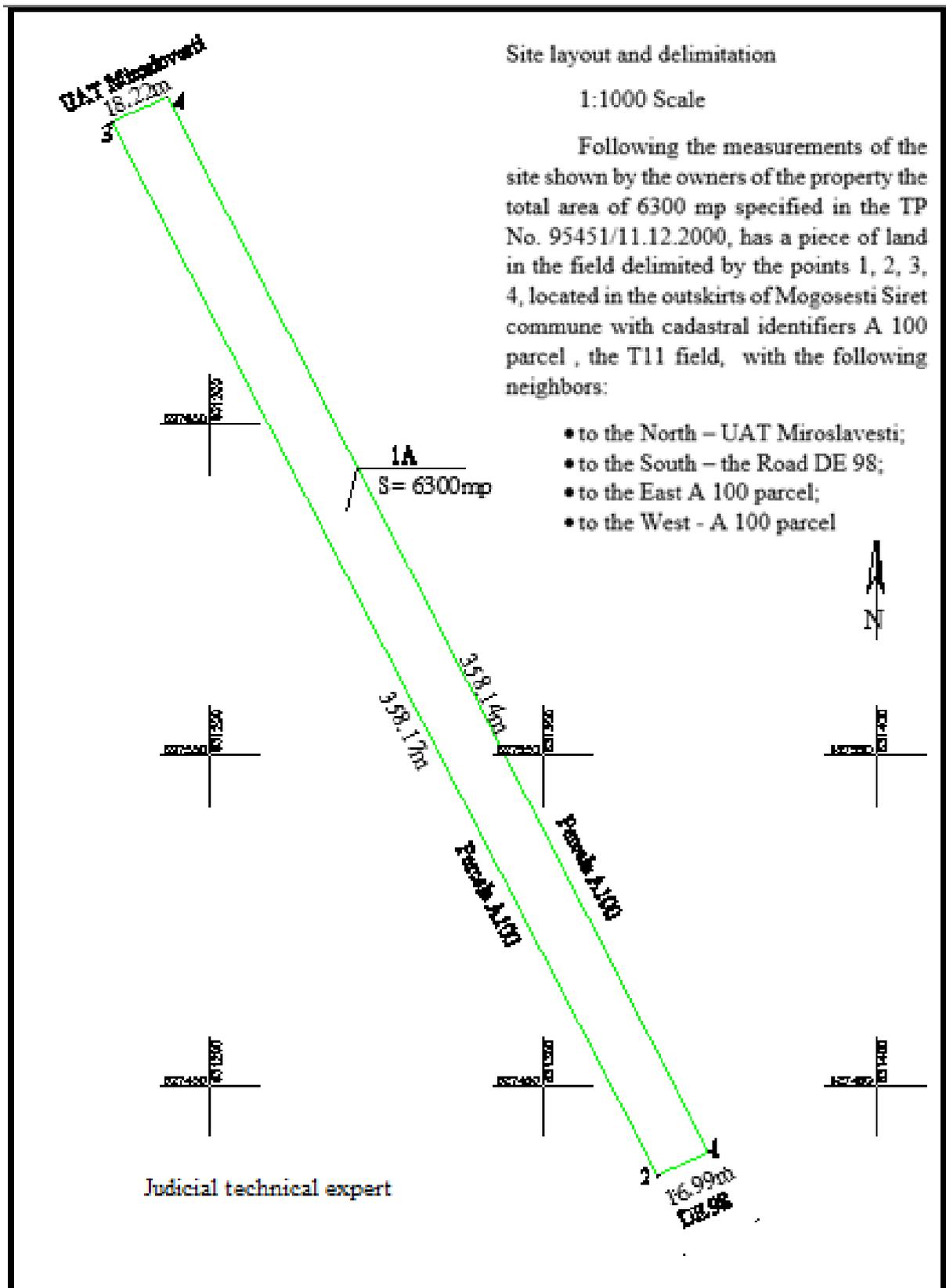
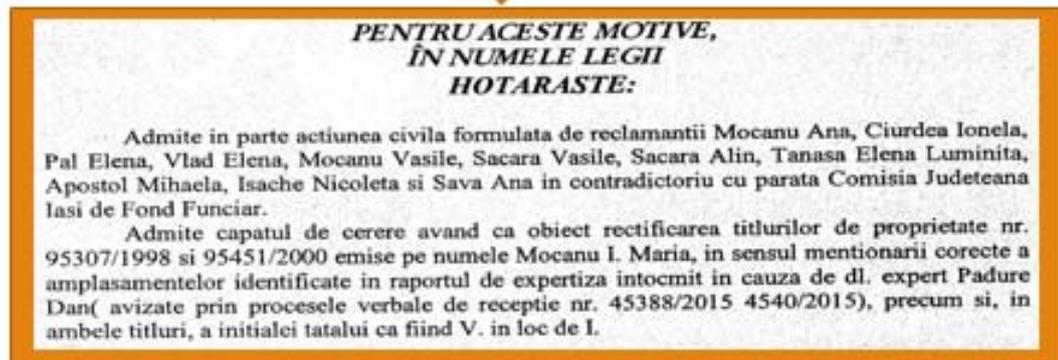
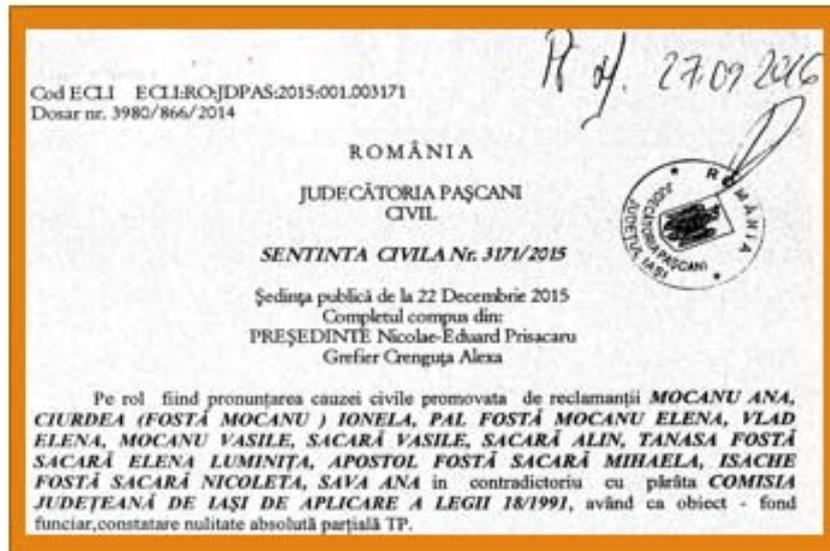


Fig. 4. Site layout and delimitation of the property of 6300m²

3. CONCLUSIONS

The expert report presented in the case study helped to substantiate and conclude a case before the court which decides how to settle the case (the rectification of the property titles as it is also apparent from the extracts from the civil sentence given by the judge presented below).



4. REFERENCES

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2. *The Law on cadastre and real – estate publicity No. 7/1996.*