

CONSIDERATIONS REGARDING THE PERFORMANCE OF THE SYSTEMATIC CADASTRE. CASE STUDY HORLESTI MUNICIPALITY, IASI COUNTY

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Abstract: *The systematic registration of lands in the integrated cadastre and land register system (PNCCF) is essential to ensure a correct record of all properties in the territory of Romania. This has a major impact in the correct determination of the surfaces and in the same time the taxes related to each property. Also, technical and legal problems that arise in the civil circuit of real estate are solved. The paper presents a series of problems that complicate the process of sporadic real estate registration within the each UAT. To exemplify, as a case study, the situation of the territory of Horlesti municipality in Iasi county is presented. The main areas studied are the extravillage agricultural lands, but also the lands that are the object of local infrastructure development projects. According to a statistic of the National Agency for Cadastre and Land Registry (ANCPI), until September 2022, systematic registration works were completed for 153 UATs representing 4.5% of the total of municipality on the territory of the country. The purpose of the paper is to highlight the need to involve administrative and legislative factors in the implementation of the systematic registration of real estate properties in the most constructive way.*

Keywords: *cadastral sectors; Eterra 3; GNSS; lands; PNCCF*

1. Introduction

After 1989 the law no. 18/1991 was given and returned part of the agricultural and forest lands to the former owners or their heirs. Law no. 169/1997 and Law 1/2000 amend and supplement Law 18/1991 and establish the property right on the old sites of the former owners within the limit of a maximum of 50 ha per owner [6].

Cadastral activity in Romania is mainly limited to carrying out sporadic works that are regulated by Law 7/1996 and Order 700/2014 which attests to the approval, reception and registration regulations in the cadastre and land register records of all real estate properties. In common practice, sporadic works encounter some approval problems because they depend on the correctness of the property documents [1,7].

The systematic registration of immovable property on the territory of a state represents the fastest way for the development of the market economy by reducing transaction costs, ensuring property rights, reducing and avoiding corruption and attracting investors [2].

The implementation of the systematic cadastre is the full responsibility of the Romanian State through the National Agency of Cadastre and Real Estate Advertising (ANCPI). Systematic registration works are carried out by authorized persons, at the level of one or more cadastral sectors [5].

The objective of the systematic cadastre is the registration in the integrated cadastre and land book system of the lands located in the extravillage of the territorial administrative units, at the cadastral sector level[3, 4].

Some of these existing problems in Romania have been identified and analyzed in a series of works carried out in the last period of time [1, 3, 4, 10].

The purpose of the paper is to highlight a series of aspects regarding the process of registering properties in the current land register, as well as the need to involve administrative and legislative factors in the implementation of the systematic registration of real estate properties in the most constructive way.

2. Materials and Methods

The research material is represented by the Horlești Territorial Administrative Unit from Iasi County. The commune of Horlești is located in the North-East region of Iași county, 28 km from the city of Iași. The analyzed problems were identified by using the cadastral maps corresponding to the analyzed area.

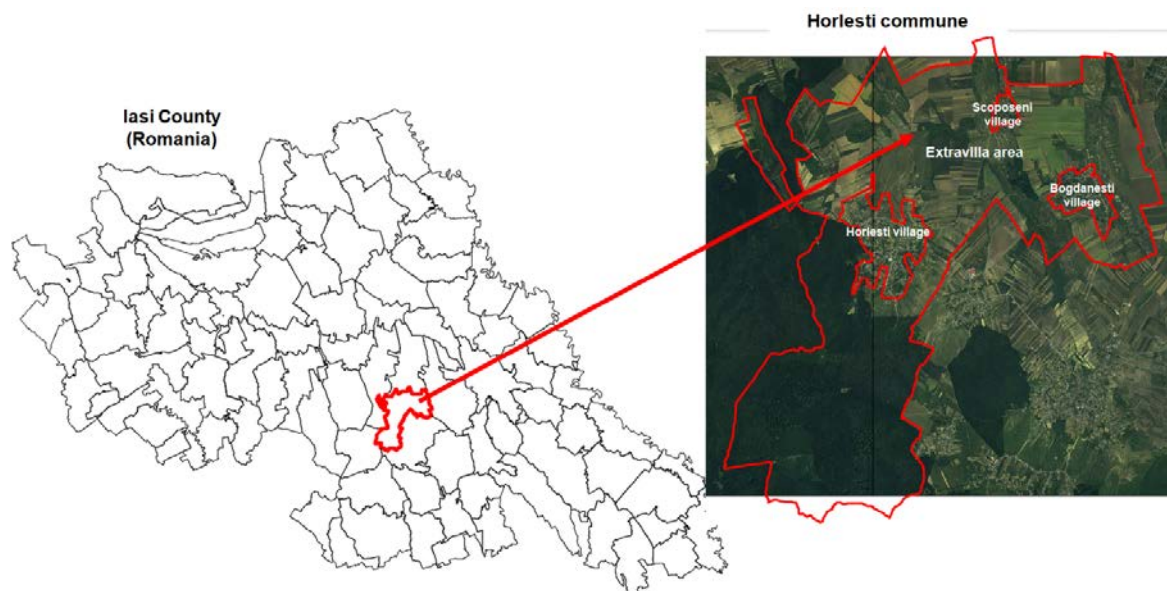


Fig. 1. Location of the study area, Horlești commune, Iași county, Romania

The research methodology consists in the analysis of some technical-legal situations encountered in the process of sporadic land registration in the integrated system of cadastre and land register. The analyzed situations refer to:

- Errors regarding the cadastral identifiers written in the property documents and those resulting from measurements according to the cadastral plan.
- Errors regarding the names of the owners in the property documents, respectively civil status documents.

3. Results obtained – Case study

3.1. Procedure for rectification of property titles

In the context of requests for registration in the Land Register of the right of private ownership of land located outside the communes, errors are very often found between the

cadastral identifiers (sector and parcel numbers) mentioned in the property titles issued after 1991 and the old cadastral plan of the administrative unit territory.

These errors prevent the registration of the property in the integrated cadastre and land register system, the documentation being resolved by a rejection of the request. Such situations further prevent real estate transactions.

The identified problem is technical and is reported after carrying out measurements in the field and drawing up the location and delimitation plan of the land. The solution, most of the time, is the rectification of the property title. The request regarding the rectification of the property title is submitted by the applicant to the local land fund commission within the UAT for which the property title was issued.

The documentation for the rectification of the property titles is drawn up by the local land fund commission based on the measurements made in the field and the existing information in the commune's database. The rectification documentation is carried out in compliance with the provisions of Decision 70/25.02.2020 issued by the County Commission for the establishment of private property rights over land, established by the Order of the Prefect. The file prepared by the local land commission must include a series of documents such as:

- The request of the applicant regarding the rectification of the property title.
- The report of the land commission in which the need to change the property title is justified and by which the full responsibility is assumed that the location has not been changed since the initial possession.
- Location and delimitation plan in analogue and digital format;
- The extract of the parcel plan and the plan of framing in the area drawn up by the specialist in land measurements.
- The applicant's statement regarding the fact that by changing the title, the location of the land is not changed and no disputes are created with the neighbors.
- Xerox copies of the civil status documents of the owner of the property right.
- The rectification process drawn up by the local land commission.
- Original property title.
- The certificate, issued by OCPI, showing that the land subject to rectification has not been sold.

The rectification procedure is difficult and lengthy, the time to solve it being between 1-2 years. The file prepared by the local land commission is submitted to OCPI for technical verification and assumes:

- Checking the sites in order to avoid overlaps with other lands already existing in the digital database;
- Verification of establishing the new cadastral identifiers;
- Verification of the writing of the plot areas and the total areas in the property title.

If the documentation is not technically correct, the file is returned to the local land commission in order to correct it. If the documentation corresponds from a technical point of view with the requirements described above, the file is forwarded to the Prefect's Institution (CJFF). The documents are checked again, from a legal point of view, and if all the provisions are respected, a decision is issued approving the rectification of the property title.

Once the decision approving the rectification is issued, the original property title is correctly rewritten by the commission that is part of the Cadastre and Real Estate Advertising Office (OCPI).

In the process of registration in the Land Registry, several types of errors appear, which require the rectification of the property title, among which the predominant:

1. Errors regarding the sector number, plot numbers, land use category and land neighborhoods.
2. Errors regarding the names of the owners of the property right.

3.2. Errors regarding the sector number, plot numbers, land use category and land neighborhoods.

Most of the time, the errors of the cadastral identifiers are accompanied by errors regarding the neighborhoods of the analyzed property. In the following, we will exemplify the case of a property title that has erroneously entered the sector number, the plot numbers, the corresponding use categories and the neighborhoods of the analyzed property.

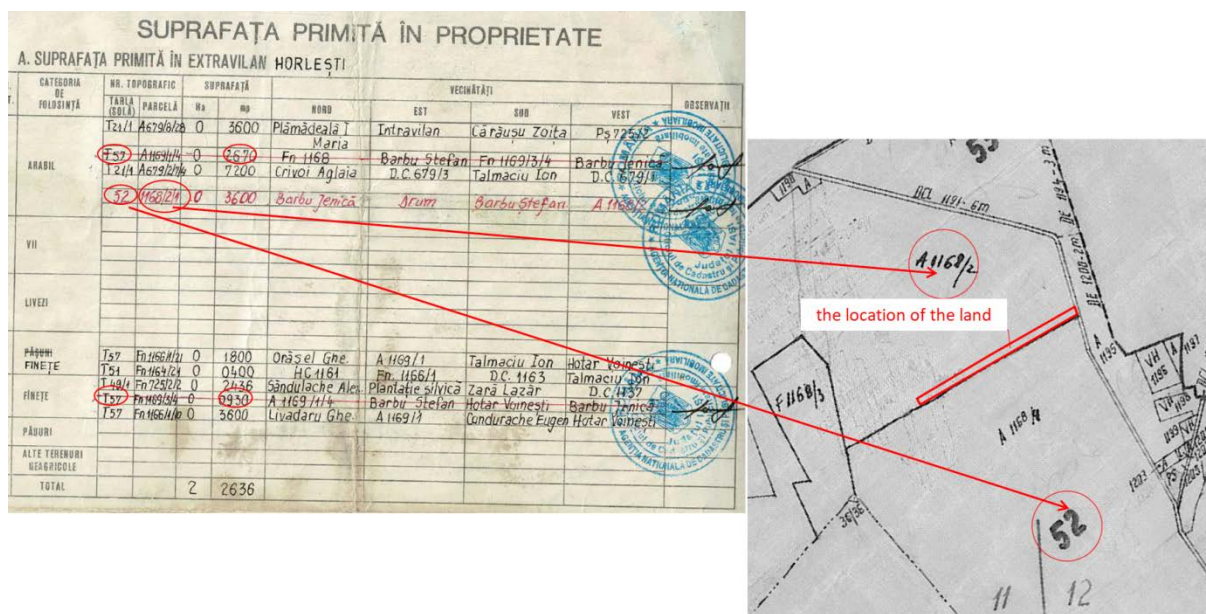


Fig. 2. Identification on the cadastral plan of the location and modification of the property title according to reality.

It follows in this case, that the property title was rectified by the correct entry as follows: Sector 52, plot A1168/2/1 with an area of 3600 mp with the neighborhoods modified and not wrong as originally written: Sector 57, plot A1169/1/ 4 in an area of 2670 mp and plot F1169/3/4 with an area of 930 mp.

Another case of error of the cadastral identifiers and the neighbors of the land is shown in fig.3.

In this case the sector number is written correctly but the plot number is incorrect. The property title was modified by correctly writing the plot numbers and land use categories as follows: Sector 9, Plots A59/1/307 and P135/1/307 and with the modified neighborhoods as shown in fig. 3 and not wrong as it was originally written Sector 9, plot A97/10/5.

It is important to mention that the rectification of a property title can be done administratively only if the surface of the land remains the same as that existing in the property title. The rectification of the titles, which involve the total modification of the land

surface, is carried out by the courts. The time of resolving such a file is approximately 4 years.

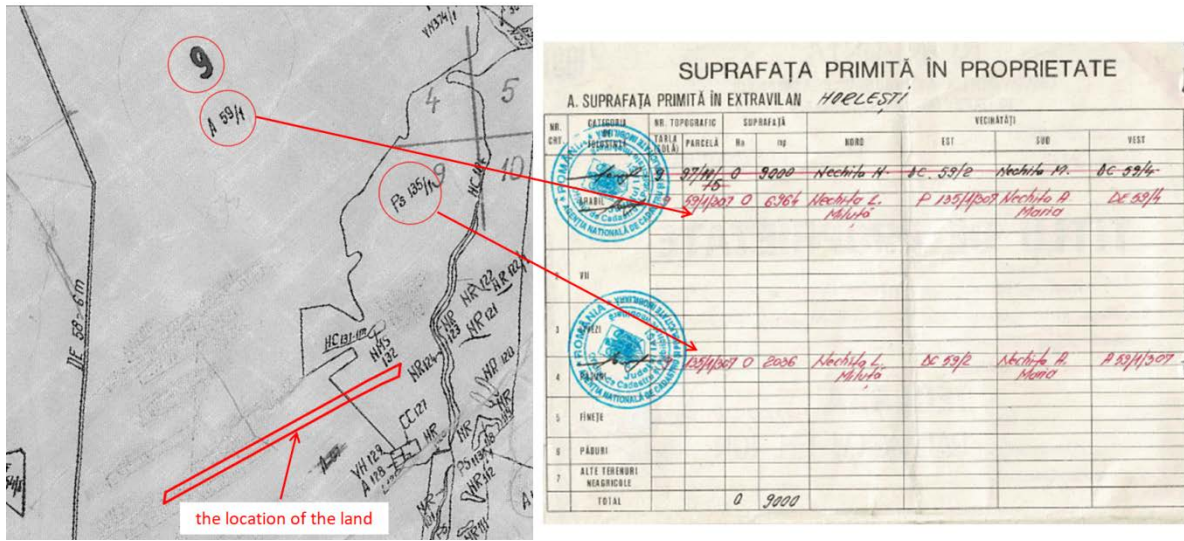


Fig. 3. Identification on the cadastral plan of the location and modification of the property title according to reality

The documentation for the rectification of the property title also includes the creation of an extract of the parcel plan drawn up by the specialist in land measurements, based on the information regarding the possession of all the owners (Fig.4).

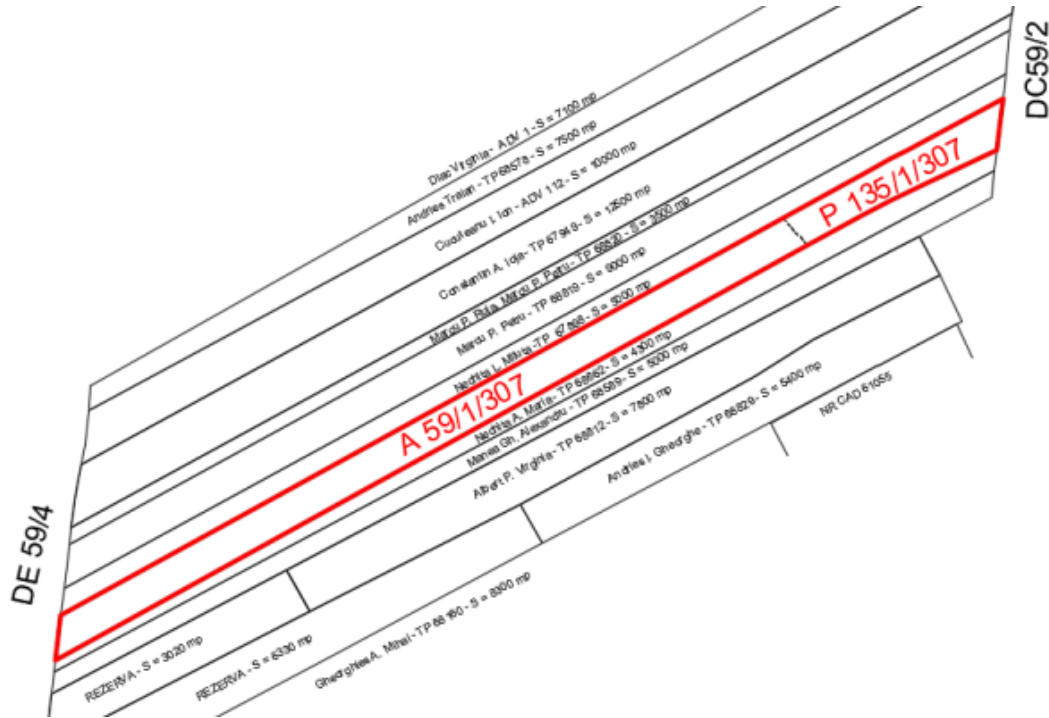


Fig. 4. Viewing the parcel plan extract drawn up in order to correct the property title

Drawing up the plot plan extract does not solve the problem of the lack of digital plot plans approved by OCPI. In their absence, all the locations of the lands in a sector are of uncertain position, a fact mentioned on the location and delimitation plan but also in the parcel plan extract. The owners assume responsibility for all the consequences arising from the uncertain location of their lands.

The preparation of parcel plans approved by the Cadastre and Real Estate Advertising Office would stabilize the problem of uncertain locations. All the lands identified within a field according to the old sketches and tables from the possession, can undergo repositioning that involves translation, rotation, modification of the geometry of the land and sometimes even reduction of the surface. After approval of the parcel plan, all the positions of the buildings in a sector become certain and the owners can accurately identify the locations of their lands.

3.3. Mistakes in the name of the owner of the property right

Mistakes in the name of the owner of the property right, also civil status documents is a legal issue.

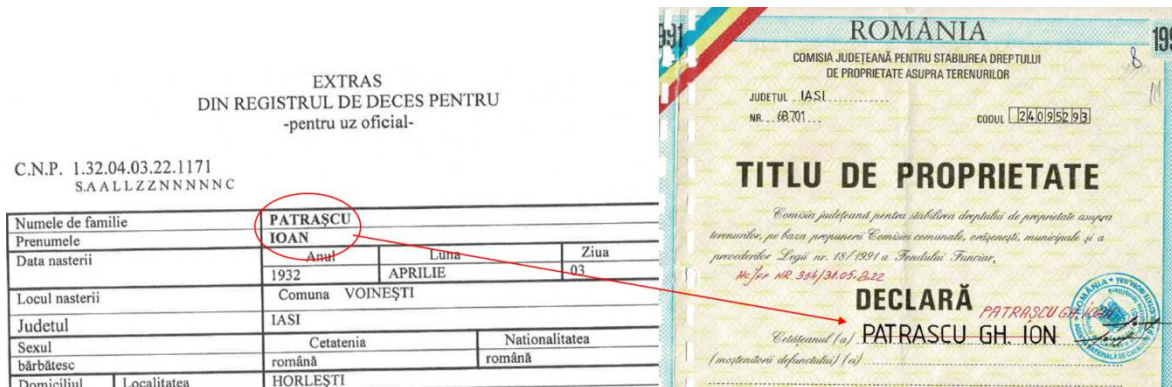


Fig. 4. Viewing the extract from the death register to correct the owner's name

Given that, from a technical point of view, the cadastral identifiers are correctly mentioned on the property title, the local land commission will draw up and send directly to the county commission, the documentation for correcting the title. They, following the checks, will issue the decision by which the name of the owner of the property right will be written correctly, in accordance with the civil status documents.

3.4. National Cadastre and Land Registry Program

Land registration in the National Cadastre and Land Registry System would solve the problems regarding the rectification of property titles, mentioned above. Through this program of national interest, the free registration of Romanian properties in the integrated cadastre and land registry system (PNCCF) is allowed, regardless of the existing errors in the property titles. Thus, a unique ID number at the UAT level, the cadastral identifiers from the property documents and the names of the owners of the property rights, according to the civil status documents, will be mentioned on each plot of land.

The main purpose of the PNCCF is the preparation of the cadastral plan at the level of each UAT. Thus, a complete inventory of all properties will be made and the problems related to the legal regime of public and private properties will be clarified.

PNCCF is a program that is carried out at the level of cadastral sectors, established by the commissions within OCPI. Although it is a program that would create benefits for both citizens and the state, there is a very low interest of ANCPI authorized persons to contract systematic cadastre works. One of the main reasons would be the lack of communication with the property owners but also with the land commissions at the level of each UAT. They have the obligation to involve and provide the necessary information for the preparation of parcel plans by the persons authorized by ANCPI.

According to a statistic of the National Agency for Real Estate Cadastre and Publicity (ANCPI), until September 2022, systematic registration works were completed for 153 UATs representing 4.5% of the total of municipalities in the country. A study carried out by ANCPI at the level of Iasi county indicates a very small percentage of the cadastral sectors for which this program has been completed (Fig. 5).

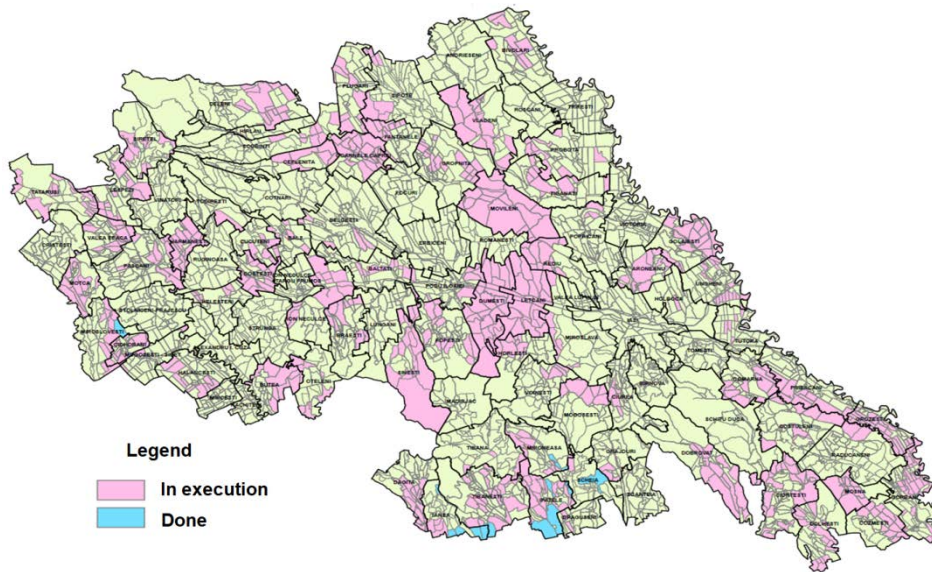


Fig. 5. Visualization of the map of the stage of systematic land registration in Iasi county (source: ANCPI)

The preparation of parcel plans approved through the process of systematic registration of lands located in the extra-urban areas of the UATs presents the following advantages:

- Ordering of all properties according to existing information from initial possession, measurements from the ground and existing investments;
- Elimination of virtual overlaps arising in the process of sporadic real estate registration.
- Updating by changing the width of the access ways (roads) in such a way as to ensure compliance with the urban planning rules imposed in order to modernize, rehabilitate them or design, expand the networks of public utilities.
- Establishing the correct cadastral identifiers, without the prior necessity of rectification of property titles.
- The digital parcel plans are stored in the digital integrated system Eterra 3 and each land will be given a cadastral number and a land book number.
- The lands will be able to be identified by stereographic coordinates and each owner or interested person will be able to access technical, economic and legal information or regarding the history of the evolution of property rights or burdens, by requesting a land deed extract.

4. Conclusions

The difficulties encountered in the sporadic registration process, with a preponderance in the non-village areas of the UATs, arise due to existing errors in the property titles.

The documentation regarding the rectification of property titles is difficult and takes a long time (1-4 years).

The involvement of all responsible institutions, owners and authorized persons in carrying out the systematic cadastre would lead to the creation of the centralized digital system of all properties.

The existence of an integrated cadastre and land book system ensures a unitary, compact record and allows easy access to explore or update information about real estate properties.

The completion of the systematic registration process ensures the correct implementation of the land taxation scheme, clarifies the public or private legal regime of the properties and provides the security of the civil circuit of the properties.

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