

## THE ROLE OF PROPERTY TITLES IN ROMANIA

Magdolna Eva KONCSAG, Assoc.prof.eng.PhD. "1 Decembrie 1918" University of Alba Iulia, Romania, eva\_koncsag@uab.ro

Mariana DAMIAN (GRIN), Stud. "1 Decembrie 1918" University of Alba Iulia, Romania, marianagrין85@gmail.com

**Abstract:** *The new Civil Code, through article 555 para. (1), provides a clear, coherent and complete definition of property right: "private property is the right of the holder to possess, use and dispose of a good exclusively, absolutely and perpetually"<sup>1</sup>.*

**Keywords:** *property title; private land ownership rights; Digital Database of property titles*

### 1. Introduction

Establishing the right of private ownership over the lands found in the patrimony of the agricultural production cooperatives is done by reconstituting the ownership right or establishing this right of the cooperative members who brought land to the agricultural production cooperative or from whom it was taken over in any way land by the agricultural cooperative (by their heirs).

Reconstitution is when the citizen had a right of ownership over a building that was taken from him voluntarily and was later regained.

The constitution is when the citizen never had a land, but after the revolution, he was given a land owned by the Romanian State.

### 2. Materials and Methods

The establishment of the right of ownership is done in both cases, upon request, by issuing a title of ownership, which is a legal act or fact on which a person's ownership right (over a thing) is based.

The purpose of Law no. 18/1991 (Law that has undergone multiple amendments and additions) is to repair the damages suffered by the former owners (through the collectivization of lands or through their abusive transfer into state ownership), through the retrocession of lands and the release of property titles.

The area brought into the agricultural production cooperative is the one that results from: the property documents, the land register, the cadastre, the applications for registration in the cooperative, the agricultural register from the date of entry into the cooperative, the records of the cooperative or, in the absence of these, from any other evidence, including witness statements.

The lands abusively taken over by the agricultural production cooperatives from natural persons, without registration in the agricultural production cooperatives or by the state, without

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<sup>1</sup>CIVIL CODE of July 17, 2009 (republished)

any title, revert by right to the owners who requested the reconstitution of the ownership right, on the old sites, if they have not were legally assigned to other persons.

In order to establish the right of ownership through its reconstitution or constitution (the effective allocation of land to those entitled and the release of property titles), in each commune, city or municipality, a commission led by the mayor and a county commission is created (by order of the prefect). The procedure for establishing and operating the commissions, as well as the model and method of awarding new property titles, were established by Government decision no. 131 of February 27, 1991 republished. The establishment of the right of ownership is done upon request, based on the situation of the lands owned by the agricultural production cooperative on January 1, 1990, registered in the record system of the general land cadastre or the agricultural register.

The responsibilities of the communal, city or municipal commissions are<sup>2</sup>:

- to receive and register requests made by citizens for the assignment of land in ownership or use (the request is submitted and registered at the town hall in the UAT where the land is located<sup>3</sup>);
- to establish the area of land to be assigned;
- complete the annexes of the regulation (1-20);
- receive and transmit to the county commission the appeals regarding the established area;

- draw up the final situation regarding the persons entitled to be assigned land;
- forwards and presents to the county commission the final situation, together with the necessary documentation and puts in possession the persons entitled to receive land, after the county commission validates the proposals made.

Based on the documentation submitted by the local commissions, which include the validated annexes, parcel plans, minutes of possession and land sketches, the county commission issues the title deeds according to the model presented:



Fig. 1. Title of ownership – model<sup>4</sup>

<sup>2</sup> Regulation on the procedure for establishing, attributions and functioning of the commissions for establishing the right of private ownership of land, the model and method of assigning property titles, as well as putting owners in possession, approved by GD no. 890 of August 4, 2005;

<sup>3</sup> Law no. 18 of February 19, 1991 (republished) of the land fund;

<sup>4</sup> Alba Iulia Real Estate Cadastre and Publicity Office

Property title forms are printed on special paper and signed by the prefect, the secretary of the Prefect's Institution and the director of the cadastre and real estate advertising office. The original signed and stamped property title is picked up by the delegate of the local, municipal, city councils, as the case may be, under signature, to be handed over to the entitled persons.

The removable parts of the signed title deed will be handed over, under the signature, to the holders, while the non-detachable part (the spine) of the title deed is retained and stored in the archives of the Real Estate Cadastre and Publicity Office.

A title deed consists of the number of the title deed with general information on the holders, as well as data on the area received as ownership which is divided into 2 parts:

Part A – refers to the area received in the extra-urban area, for each use category separately and includes: use category, no. of land, no. of the plot, the surface, the neighbors to the North, East, South, West, and the generic name of the place of the respective plot is added to the observations.

Part B - refers to the area received within the city, for each assigned use category, with land number, no. of plot, surface area, neighbors and the address of the buildings, if known, or the generic name of intra-village plots is usually included in the comments; after which the total area of the respective title is passed: General Total, by summing the two parts (A+B).

### **3. Results and discussion**

The name, first name of the holders is written under the column "citizen", and under the column "through the reconstitution of the ownership right" the surface assigned to the persons who owned land in ownership, or their heirs, is entered.

Over time, countless problems related to property titles have arisen, among which the most relevant would be:

- in many territorial administrative units, the parcel numbers are not correct, they are reversed, and this is where many problems arise when registering the land;
- lack of final parcel plans;
- lack of definitive possession sketches (they are made on the basis of subsequent documents, in exceptional cases, in the absence of the definitive plot plan with the respective mention).

Thus, many plots of land in the property titles are listed in the land register without a definite location due to the lack of a plot plan.

By plot plan is meant the graphic representation of a plot that contains the limits of all buildings in the plot and the stable details of the land that define it, the plot plan becoming a cadastral plan after the reception and assignment of cadastral numbers by the territorial office of cadastre and real estate advertising.

The digital database of property titles within the Real Estate Cadastre and Publicity Office is called D.D.A.T.P. (the title management application that contains textual information taken from title deeds issued under property laws).

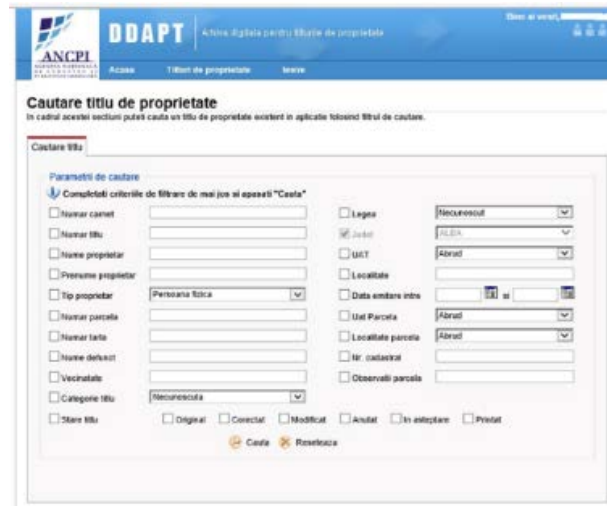


Fig.2. Digital database of property titles<sup>5</sup>

Since 1991, the Land Fund Law has been amended and supplemented many times in order to repair the damages suffered by the former owners, and the last amendment and addition was Law no. 123/2023 which in this case refers to the citizens who failed to obtain the Title of Ownership of the owned lands, especially for the lands in the mountain area (who otherwise would have had to go to court to obtain the title of ownership).

It is a very important law that comes to help especially the mountain area.

Land owners or heirs who have not registered in the agricultural production cooperative, have not surrendered or have not had their land taken over by the state through transferable ownership documents can apply, upon application (submitted to the town hall of the localities where the land is located), the county commission issuing the property title only if:

1. the owners or their heirs appear with the land in the agricultural registers or tax registers and records;
2. no land registry was opened for the requested land based on the Law of Cadastre and Real Estate Advertising no. 7/1996, republished, with subsequent changes and additions;
3. the land is not the subject of requests for the reconstitution or establishment of the right of ownership by other persons, nor was a title deed previously issued in respect of it<sup>6</sup>.

Thus, some (not all) administrative-territorial units, through representatives of the land fund commissions, carried out an extensive campaign to inform the citizens by organizing meetings with the citizens at the town halls, respectively displaying the announcements in specially arranged, visible places, known to the majority citizens or at the headquarters of the town halls of the territorial administrative units.

The file includes the following documents:

1. The request of the applicant, accompanied by a copy of the identity document, civil status documents and birth and marriage documents; if the applicant formulates the application as an heir, death certificates and a certificate of heir/successor status are submitted;
2. Technical report, made and validated by signature and stamp by a person authorized by the National Agency for Real Estate Land Registry and Publicity (ANCPI), certifying that no land registry has been opened for the requested land based on Cadastre Law no.7/1996, republished;

<sup>5</sup>The Real Estate Cadastre and Publicity Office, Alba

<sup>6</sup>Law no. 123 of May 15, 2023 for the amendment and completion of the Land Fund Law no. 18/1991

3. Land location and delimitation plan, drawn up, signed and stamped by a person authorized by ANCPI/OCPI, according to Annex no. 16 to Regulation no. 600/2023, also signed and stamped by the president of the local Commission for establishing the right of private land ownership, without overlapping with neighboring lands;

4. Certificate issued by the City Hall showing the area registered in the Agricultural Register;

5. Fiscal attestation certificate;

6. If the requested land is in dispute, a declaration on personal responsibility from the applicant stating the final solution.

The application, together with the documents described above, must be submitted to the UAT City Hall, either in person or by mail, within the deadline provided by law (May 19, 2023 – November 20, 2023).

An example of a request made pursuant to art. 27 para. (21 of the Land Fund Law no. 18/1991, republished, with subsequent amendments and additions, as this article was amended by Law no. 123/2023 can be viewed below:

**CERERE**

**Formulară în temeiul art. 27 alin. (2)<sup>1</sup> din Legea fondului funciar nr. 18/1991, republicată, cu modificările și completările ulterioare, astfel cum acest articol a fost modificat prin Legea nr. 123/2023**

Subsemnatul/a \_\_\_\_\_ și al \_\_\_\_\_  
fiul/fiica lui \_\_\_\_\_ și al \_\_\_\_\_ născut/ă la data \_\_\_\_\_  
de \_\_\_\_\_ în localitatea \_\_\_\_\_, cu domiciliul în \_\_\_\_\_ județul \_\_\_\_\_  
localitatea \_\_\_\_\_ str. \_\_\_\_\_ nr. \_\_\_\_\_  
posesor al C/BI seria \_\_\_\_\_ nr. \_\_\_\_\_ eliberat de \_\_\_\_\_  
la data de \_\_\_\_\_ având CNP \_\_\_\_\_

În baza prevederilor art. 27 alin. 2<sup>1</sup> din Legea fondului funciar nr. 18/1991, republicată, cu modificările și completările ulterioare, astfel cum acest articol a fost modificat prin Legea nr. 123/2023;  
Solicit emiterea titlului de proprietate, pentru terenul situat în UAT \_\_\_\_\_, Tomeni, Județul Hunedoara, în suprafață de \_\_\_\_\_ mp, în calitate de :  
 deținător  
 moștenitor al defunctului

Declar că: sunt unic moștenitor / sunt moștenitor împreună cu: \_\_\_\_\_

Pentru terenul în cauză, declar că sunt îndeplinite prevederile art. 27 alin. 2<sup>1</sup> din Legea fondului funciar nr. 18/1991, modificată prin Legea nr. 123/2023, după cum urmează:

- terenul în cauză **nu a fost înscris în cooperativa agricolă de producție** (nu a fost cooperativizat), nu a fost prelat la stat și nu a fost prelat la stat prin acte translativ de proprietate;
- în calitate de deținător moștenitor, figurez cu terenul în registrele agricole/registrele cadastrale și în evidențele fiscale;
- pentru terenul în cauză **nu a fost deschis cartea funciară** în baza Legii cadastrului și a publicității imobiliare nr. 7/1996, republicată, cu modificările și completările ulterioare;
- terenul **nu face obiectul cererilor de reconstrucție** sau constituie a dreptului de proprietate de către alte persoane și nici nu s-a eliberat anterior titlu de proprietate cu privire la acesta;
- terenul nu face și nu a făcut obiectul unei cauze aflate pe rolul instanțelor de judecată.

Anexez următoarele documente:

*Declar că conținutul datelor cu caracter personal furnizate în cerere că de utilizare în conformitate cu Legea nr. 677/2001 privind protecția persoanelor cu privire la prelucrarea datelor cu caracter personal și libera circulație a acestor date, cu modificările și completările ulterioare.*

București \_\_\_\_\_ Data \_\_\_\_\_ 2023

Fig. 3. Application for the issuance of the property title<sup>7</sup>

#### 4. Conclusions

Thus, as a result of Law no. 123/2023 results in two extremely important aspects:

1. If the Property Title is issued according to Law no. 123/2023 - the building permit can be issued from the town hall immediately, while by possession - citizens become owners only after 3 years;

2. It will be possible to access European funds immediately, a fact that would help to create a real database of properties for a correct taxation and to support the development of the Romanian village in an alert way.

The authorities are waging a continuous struggle so that all citizens can regain all their land confiscated by the communist regime. Where it does not succeed - the impediments are noted, proposals are continuously made to amend the land fund law.

<sup>7</sup>[https://www.primariadeva.ro/images/uploads/documente/model\\_cerere\\_fond\\_funciar.pdf](https://www.primariadeva.ro/images/uploads/documente/model_cerere_fond_funciar.pdf)

## 5. References

1. *Civil code of July 17, 2009 (republished);*
2. *Regulation on the procedure for establishing, attributions and functioning of the commissions for establishing the right of private ownership of land, the model and method of assigning property titles, as well as putting owners in possession, approved by GD no. 890 of August 4, 2005;*
3. *Law no. 18 of February 19, 1991 (republished) of the land fund;*
4. *Law no. 123 of May 15, 2023 for the amendment and completion of the Land Fund Law no. 18/1991;*
5. *[https://www.primariadeva.ro/images/uploads/documente/model\\_cerere\\_fond\\_funciar.pdf](https://www.primariadeva.ro/images/uploads/documente/model_cerere_fond_funciar.pdf)*