

The main purpose of this reform, as is summarised in its preamble, is the coordination of the information contained in both institutions in order to improve the identification of buildings and to speed up and simplify the relationship of these organizations with the citizens and the Public Administration.

To this end, the new law establishes mechanisms to connect the registered properties of the Real Estate Register with the cadastral land of the Cadastral Register, which shall be compulsory in the event of any restructuring of land or properties (segregations, subdivisions, etc.) and voluntary in all other cases. The law thus regulates the procedure of inclusion of the cadastral graphical representation in the Real Estate Register, as well as establishes the procedure to communicate and amend the cadastral data if this does not match with the Real Estate Register information. In this sense, the cadastral cartography is established as the basis for graphical representation of registered properties, establishing reciprocal data communication channels to this end, which brings about an improvement of the previous regulations, as previously the Real Estate Register only provided property ownership data but not graphical data.

In addition, a general regulatory framework for this relationship is established, as well as a specific scope for each procedure. Therefore, in regard to private procedures, the law seeks the removal from the judicial process, that is, to remove the intervention of the courts from the ordinary proceedings, allowing just the intervention of the courts in the event of an appeal. Therefore, court intervention is relegated to cases of opposition by any of the interested parties, leaving the notaries and real estate registrars as the parties responsible for registering land, rectifying surface area, adding graphical data, duplicating entries and releasing encumbrances.

On the other hand, a systematic regulation is provided for the first time a real estate is registered within the Real Estate Register. Dual successive ownership now requires previous ownership of at least one year, proven by public deed. In addition, the reform considers a number of cases of ownership for registration which had been previously regulated by special rules, such as the re-allotment project or rulings arising from administrative demarcation.

In regard to registration, another novelty is the removal of the privilege granted to the Roman Catholic Church since 1998 of registering real estate via special procedure, which does not require title of ownership and which is now reserved to the public administrations. The law has established that the privileges hitherto granted to this institution in regard to the special procedure for registration were grounded in the past and have currently been rendered unnecessary.

Lastly, the reform modifies a number of precepts of the consolidated text of the Real Estate Cadastral Law passed by Royal Legislative Decree 1/2004 of 5 March of which the most relevant is the consideration that developable land that does not have detailed building planning must be classified as rural land, as Spanish case law has recently considered. This novelty is particularly relevant concerning the taxation of property, given that the difference between urban and rural land is reflected in the Property Tax applicable in each case.

To sum up, the new Law, that will be in force on 1 November of this year, introduces changes in order to facilitate the procedures in relation with the two institutions previously mentioned, the Real Estate Register and the Cadastral Registry, and to terminate the administrative gaps of the former regulation. However, the following dispositions of the reform have already come into force since the day after the publication of the reform in the Spanish Official State Gazette:

1. Paragraph 12 of article one, that gives a new writing to article 206 of the Mortgage Law, which establishes the obligation of the real estate registrar to check the previous registration of the property and the emission of the edict, as well as the possibility to recommence the unbroken chain and the practice of registrable operations of assemblage, division, detachment, etc.
2. Article two, which modifies the writing of some precepts of the Cadastral Law, among others, the ones related to the procedures of correction of discrepancies and rectification, or the access to cadastral protected information.
3. The second paragraph of the output provision, which establishes the removal of the rules that are contrary to the provisions of the new Law.