

What Would Title Registration Bring to a Deeds System with High Quality Land Information?

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SUMMARY

An important part of a land administration system that is aimed at constantly reflecting the current right holders of the land and supporting the real estate market, is the system behind the registration of rights, restrictions and responsibilities. Over time the way land transactions have been evidenced, moved from oral agreements, via private conveyancing to registration of deeds, and ultimately registration of title (Larsson 1991). Although most literature sees each step in this development as providing a better system, there are countries with well operating land administration providing a high level of tenure security which legally still operate 'only' a deeds system (e.g. France, South-Africa and the Netherlands). In case of the Netherlands the administrative side of the cadastral records contains high quality information on the rights and right holders, derived from the registered deeds, and for many issues society relies on that information (and, 'being a so called 'key registration' is even obligatory to be used by the public sector).

The introduction of improved legislation in 1992 (both a revised Civil Code and the introduction of a specific Law on Cadastre and Public Registers) combined with the (early) digitalization of these administrative records, over time has further increased the quality of the information. Some (small) interventions over the years have added to this quality as well. A number of further (administrative) improvements are being considered.

Although in general systems of land registration can be seen to be on a sliding scale from simple deeds to advanced title registration, in a recent study we found that there is a discontinuity somewhere on this sliding scale. Whereas it is getting harder and harder to further improve the quality of the information, the full benefits can only be reaped when the law at some point gives legal status to this information (i.c. see it as a title record). Depending on the specific context, incl. the problems experienced due to current weaknesses, power balance between stakeholders and more general e-government developments, such a jump may be warranted or not.

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