

Land resources management through maintaining unified state register of immovable property in Russia

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Abstract. Environmental planning and management serve to develop and implement special measures aimed at the rational use of natural resources, including the rational land use. Any further improvement of the production efficiency as well as of the material and cultural living standards is subject to the rational, economical use of land resources aiming to ensure balance in the natural environment. Land resources constitute a critical factor in the production and economic development of the country. State economic potential is strongly dependent on the availability and efficiency of environmental use and protection. For its part, the rational and effective land use requires a unified state register of immovable property. With due consideration of the current land use challenges and in order to improve the land use efficiency and regulating procedure, the appropriate legal and regulatory acts have been adopted both at the federal and local level in the Russian Federation. The principles of the rational land use planning are subject to current environmental safety requirements and management mechanism.

1 Introduction

Our country is the world's largest owner of land resources which require proper control and management. Sound land management is necessary for the sustainable development of the territories of municipalities, constituent entities of the Russian Federation and the country as a whole. It is the Unified State Register of Immovable Property (EGRN) that significantly contributes to the increase in land use efficiency depending on the environmental safety requirements, and at the same time provides the state and society with all relevant legally significant information based on the data from the Unified State Register of Immovable Property being very important for the system of land management. Due to the maintenance of EGRN which has been replenishing and updating information about the land resources of the country on a continuing basis, it is possible to form a general idea about the distribution of lands, their structuring and proper planning of their effective use.

Being a unique, multifunctional and structurally complex object, land resources management operates at various interrelated levels thereby comprehensively implementing a unified state land policy in close cooperation with economic entities.

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Besides, nowadays the paradigm of this area is still evolving and developing. For example, a concept of state regulation of land relations is positioned as a system of measures aimed at creating state legal and economic prerequisites for the sustainable functioning of all forms of ownership, possession, and use of land, and a concept of state land management – as the governmental public-law regulation aimed at efficient use of lands of all categories and types of ownership.

Rational land use and continuous improvement of land fertility necessitates the comprehensive quantitative and qualitative land registration based on the Unified State Register of Immovable Property, environmental planning and management.

In order to make land resources management the most effective, it is necessary to harmonize all subjects of regulation and organize them into a special registry. At present, the state makes the system of real estate harmonization more effective by improving its registration at legislative level. So, the State Duma of the Russian Federation considered a draft law that was adopted by the Federal Assembly of the Russian Federation by Federal Law No. 218-FZ of July 13, 2015 «About state registration of the real estate», which came into force on January 1, 2017.

For more than twenty years, in our country the land reform has been performing aimed at solving the following tasks:

- 1) transformation of the existing land relations, implementation of diversity and equality of land ownership forms;
- 2) creating conditions for the development of diversified economy, promoting more effective business patterns;
- 3) stopping degradation of lands and ensuring their rational and environmentally friendly use;
- 4) meeting citizens and legal entities need for various land plots (primarily, as gardens and vegetable gardens for city residents).

Today, rational use of land resources is the most relevant issue in maintaining the Uniform State Register of Immovable Property in the sphere of cadastral activities as well as in further environmental planning and management.

Rational use of land resources means not only the use of land resources when the natural and economic conditions and properties of a given area are most fully taken into consideration, the fundamental socioeconomic interests of society are ensured, high efficiency of production and other activities is achieved, protection and reproduction of productive and other soil properties of the land is ensured, but also the possibility of land use by legitimate land users as well as correctness of making entries about land plots into the Unified State Register of Immovable Property.

Making entries in EGRN is regulated by Federal Law No. 218 «On State Registration of Immovable Property» (hereinafter as «Registration Law») and performed by a rights registration authority (Department of the Federal Service for State Registration, Cadastre and Cartography).

The Unified State Register of Immovable Property is a code of reliable consistent data in a text form (semantic information) and a graphic form (graphic data) that provides both cadastral engineers and owners with the information concerning the location of land plots boundaries, their area, registered rights, cadastral value etc.

Entries in EGRN are to be made on the basis of the documents obtained in result of cadastral works. Thus, quality of the data in the Unified State Register of Immovable Property directly depends on the quality and accuracy of the work performed by Cadastral Engineer.

2 Materials and Methods

Land reform has become an essential element of restructuring of the country's economy, one of the main governmental policy.

Today the main objectives of the land reform are as follows:

- 1) improving land use efficiency;
- 2) creating conditions for the improvement of social, investment, and production land potential;
- 3) transforming it into a powerful standalone factor of economic growth.

Nowadays, land policy in Russia shall contribute to addressing two interrelated tasks:

- 1) It shall help in resolving high-priority problems of the economic crisis and its social consequences;
- 2) It shall create territorial preconditions for radical restructuring in the economy.

Measures that address the high-priority tasks shall be inseparably linked to measures that address fundamental problems of the future.

Such problems, inter alia, are those related to the formation of EGRN system.

EGRN is a single multi-purpose system that ensures providing the necessary information for a set of management tasks: land use planning, land redistribution, control over land use and protection, land management, resolution of land disputes, taxation, protection of rights to land, etc.

As a rule, the EGRN documentation includes the following:

- land plot identification;
- address;
- name and address of owner;
- description of landholdings (area, quality, quantity);
- description of buildings (age, area, materials, equipment);
- market information about rental fee or sale price;
- assessment information;
- information on taxes (e.g., in Denmark, Norway, Sweden, Germany, and Russia).

Applying such a multi-purpose cadastral system makes it possible to address problems in various spheres of public and economic life, namely:

- registration of real estate property;
- mortgage formation;
- land resources management;
- execution of real estate transactions and development of a land market;
- establishing a socially equitable taxation system;
- land use control;
- spatial and territorial planning;
- information of the public;
- land protection, etc.

Such a multi-purpose cadastral system has the following advantages:

- 1) reliable and convenient registration of all operations related to objects of land and property complex, various transactions with them;
- 2) ensuring guarantees and protection of rights of landowners and other parties which have jural relation to the land;
- 3) significant decrease in the number of land disputes and appeals to the courts that improves the psychological and social climate in society, helps to reduce the number of court cases and the associated costs;
- 4) ensuring conditions for systematic evaluation and taxation of land plots and other immovable property;
- 5) land use control;

6) establishment of a land control and supervision system as well as other benefits.

Besides, the multi-purpose cadastral system is useful for the purpose of administrative management. Systematic collection of information on subjects and objects of land relations, maintenance of cadastral maps, and registration of real estate objects provide the opportunity to solve administrative issues.

Plots of land and buildings that collectively form a land-and-property complex of any country constitute a large part of the national wealth which is associated with significant tax revenues. Thus, all data relating to the land, buildings, enterprises, possessions and other objects of this land-and-property complex must be linked into a single information system.

The logical (and economically feasible) completion of the process of forming a multipurpose cadastral system in Russia is the creation of State Real Estate Cadastre (GCN) on the basis of the State Land Cadastre (GZC). This conclusion may be reasoned by the following:

1) GZC and GCN object is an entire state land fund irrespectively of its departmental affiliation, ownership, designated purpose, and intended use;

2) According to the law when maintaining GZC and GCN, cadastral objects are formed, state cadastral records of these objects and the rights to them are kept under a single national system. A primary registration cadastral object means a land plot and other real estate objects strongly associated with this land plot and having their specific characteristics;

3) GZC and GCN ensure an administrative and territorial integrity, address registration and recording of objects and subjects of land relations as well as recording of their ongoing changes;

4) these are the only real estate cadastres that have a vertical state organizational structure with offices in administrative districts and cities covering the entire territory of the country;

5) GZC and GCN are the only condition for legal evidencing of the existence of a particular object and title to it. The fact of the occurrence, existence or termination of the object or title to it registered in GZC and GCN, can further be only contested in the courts;

6) legislatively regulate land relations between owners and users of land plots and other real estate objects that are firmly associated with them, as well as relations with state bodies arising in the process of recognition and certification by the state of the existence and cessation of cadastral objects;

7) determine the spatial attitude and identification of land plots and all other real estate objects that is especially important for built-up areas;

8) determine departmental information that is heterogeneous in its structure and composition, and provide it with a territorial link;

9) pursuant to the federal legislation, provide interaction between holders and users of cadastral information (state and local government bodies, legal entities, and individuals) as well as the procedure for its provision.

As of today, EGRN data contain a lot of registry errors. According to cl.3, art. 61 of the Registration Law, a registry error is a reproduced in EGRN error that contained in a delimitation plan, technical plan, map-plan of a territory or survey report resulting from an error made by a person who performed the cadastral work, or an error contained in the documents sent or submitted to the registration authority by other persons, shall be corrected by decision of the state registrar of rights within five working days from the date of receipt of such documents, including in the order of information interaction indicating registry errors and containing the necessary information for their correction, or on the basis of an enforceable court decision to correct such a registry mistake.

A large number of registry errors leads to a discrepancy between actual land boundaries and their data entered in EGRN, and, besides, triggers new registry errors and land disputes.

As of 31.12.2017, EGRN contains data on 6,236,621 land plots located in the Southern Federal District («SFD»).

In the year 2017, 132,601 land plots were registered in the cadaster of the Southern Federal District.

Out of them compared to the year 2016, the below registered as per subject:

- Republic of Adygeya – 15% less (from 7,883 to 6,704);
- Astrakhan Region – 21% more (from 9,654 to 12,175);
- Volgograd Region – 4.5 % less (from 18,950 to 18,090);
- Republic of Kalmykia – 31.5 % less (from 6,822 to 4,673);
- Krasnodar Territory – 31% less (from 77,810 to 53,744);
- Rostov Region – 34.8% less (from 57,087 to 37,215).

It should be noted that in 2017 the number of land plots entered into the state cadastral registry in the Southern Federal District decreased by 45.605 (26%) compared to 2016, due to the low activity of applicants.

For the reporting period the number of decisions taken on suspension of the state cadastral registration of land plots in the Southern Federal District has amounted to 74,656, which is 28% less than the same indicator for the last reporting period (104,314):

- Republic of Adygeya – 12 % less (from 2,860 to 2,509);
- Astrakhan Region – 51.7% less (from 9,176 to 4,426);
- Volgograd Region – 25% less (from 10,812 to 8,070);
- Republic of Kalmykia – 51.7% less (from 758 to 366);
- Krasnodar Territory – 26.5% less (from 44,811 to 32,933);
- Rostov Region – 26.6% less (from 35,897 to 26,352). The main reason for the suspension of the state cadastral registration is low quality of documents prepared by cadastral engineers regarding land plots due to the entry into legal force of Law No. 218-FZ as well as Order No. 921 of the Ministry of Economic Development of Russia «On the approval of the form of the boundary plan and the requirements for its preparation» on January 1, 2017.

The number of decisions taken on the refusal of the state cadastral registration of land plots for the reporting period decreased by 25% in the SFD and amounted to 42,270, which is less than the corresponding indicator of the previous reporting period (56,513):

- Republic of Adygeya – 5.5% less (from 1,589 to 1,497);
- Astrakhan Region – 45% less (from 6,430 to 3,547);
- Volgograd Region – 20% less (from 3,622 to 2,884);
- Republic of Kalmykia – 65% less (from 593 to 205);
- Krasnodar Territory – 42.5 % less (from 37,983 to 21,817);
- Rostov Region – 49% more (from 6,296 to 12,320).

The main reason for taking the decisions to refuse in cadastral registration of land plots is the expiration of deadlines for cadastral registration and failure to eliminate the circumstances that gave rise to such suspension.

As of 31.12.2017, EGRN contains data on 1,914,402 land plots located in the territory of the Rostov Region in total.

In 2017, Rosreestr Management made 118,987 registry entries with respect to land plots including the following:

- Registration with the state cadaster registry – 37,215;
- Entering into EGRN data on previously registered land plots – 3,178;
- Cadaster deregistration – 12,373;
- Registration of changes – 60,468 (out of them, upon applications – 57,466);
- Correction of technical errors in EGRN data – 5,753 (where upon applications – 260).

It can be noted that compared to the indicator of 2016, in 2017 there is a decrease in the number of land plots registered with the state cadaster (from 57,087 to 37,215) due to the fact that most of the real estate objects had been registered in the state cadastre during the period preceding the enactment of Law No. 218-FZ from 01.01.2017.

Number of taken by Rosreestr Department decisions on suspension of maintaining the State cadastral records of land plots has decreased by 27% compared to a similar indicator for the preceding reporting period (from 35,897 to 26,352) due to the improved quality of documents provided for keeping State cadastral records as well as interaction of the Department employees with the cadastral community.

Nevertheless it should be noted, that in 2017 the number of refusals in keeping the State cadastral records of land plots increased by 2 times due to the failure to eliminate the reasons that prevented implementation of state cadastral records during the suspension period.

According to article 3.2 of Federal Law dated 24.07.2007 № 221-FZ «On the cadastral activity» (hereinafter referred to as Law № 221-FZ), Rosreestr Department is endowed with supervisory powers in respect to self-regulated organizations of cadastral engineers (CE SRO), in result of which in the year 2017 Department submitted to CE SRO 144 materials on the actions of cadastral engineers in order to control by CE SRO over the professional activity of their members. Upon consideration of which on 23 materials CE SRO run unscheduled checks in relation of its members, out of which 9 led to measures undertaken by CE SRO.

3 Conclusions

Thus, as it is clear from the above presented statistical data, that the main problem when entering data into ERGN to be deemed errors made by cadastral engineers while making boundary, technical plans, inspection reports and other documentation required by the procedure of state cadastral registration of real estate.

At the same time, mention should be made of the services provided by a title registration authority that performs supervisory functions over the SRO activities.

In view of increase in number of judgments on the refusal to make entry of real estate objects into the State cadastral registry, and in case of failure to eliminate the cause of such suspension, in order to improve professional level of cadastre engineers in 2017 the titles registration authority implemented the following measures aimed at improving the interrelations with CE SRO:

- upon detection of gross violations of the current legislation by cadastral engineers in the course of their cadastral work in the territory of the Rostov Region, the CE SRO and law-enforcement authorities were provided with the materials for taking response measures;
- members of CE SRO were included into the Appeal Commission against decisions on suspension of the cadastral registration established under Directorate pursuant to article 26.1, Law No. 221-FZ.

However, Directorates of the SFO subjects take steps to train cadastral engineers with the purpose to decrease the number of suspension decisions within the approved working groups and scheduled plans.

In view of increase in number of judgments on the refusal to make entry of real estate objects in the State cadastral registry, and in case of failure to eliminate the cause of such suspension, in order to improve professional level of cadastre engineers in 2017 Directorates implemented measures to interrelate with CE SRO. Besides, in order to prevent violations by cadastral engineers of the requirements of the current legislation of the Southern Federal District, the practice of lecture classes and workshops with cadastral engineers was continued. Meetings have been arranged in order to improve the quality of

cadastral work and increase the level of documents to be prepared for the state cadastral registration. Written replies have been prepared for appeals of cadastral engineers according to the procedure established by Federal Law No. 59-FZ of May 2, 2006 «On the procedure for considering applications of citizens of the Russian Federation».

Besides, working meetings have been held, and personal invitations for consultations have been sent to those cadastral engineers who most often made mistakes in the preparation of documents necessary for the state cadastral registration.

In order to identify violations of the current legislation committed by cadastral engineers in the course of their cadastral activities, the SFD Directorates conduct regular monitoring and analysis of the reasons that led to decisions to refuse and suspend cadastral registration of real estate objects. In case of detection of gross violations of the current legislation committed by cadastral engineers in the course of their cadastral work in the territory of the Rostov Region, the SFD Directorates submit the materials to the CE SRO and law-enforcement authorities for taking response measures.

It is necessary to draw attention to the following statistical data – Directorate sent to CE SRO 144 materials on the actions of Cadastral Engineers in order to request CE SRO to ensure control over professional activities of their members. As a result, CE SRO conducted unscheduled inspections of their members with respect to 23 materials, out of which 9 led to measures taken by CE SRO.

Thus, response measures have been taken only with respect to a small part of violations committed by cadastral engineers, which constrained the quality of cadastral work.

As per Cl. 9, Art. 30.1 of Law No. 221-FZ, a self-regulating organization ensures control over the entrepreneurial or professional activities of members of such a self-regulating organization by means of scheduled and unscheduled inspections.

An out-of-schedule inspection by self-regulating organization may be carried out on the grounds of a complaint to such self-regulating organization regarding a violation by its member of the requirements of the standards and rules of this self-regulating organization.

On the basis of the above it can be concluded that CE SRO should make amendments to the standards and rules of self-regulated organization in order to implement disciplinary measures with respect to members of self-regulated organization. At the same time, based on the materials related to the actions of cadastral engineers, self-regulating organizations shall make mandatory inspections under each claim or application, upon which it is to be decided whether to apply disciplinary measures.

Currently preparation of documents for cadastral registration of real estate objects has a number of problems requiring attention and immediate solution. Preparing documents by cadastral engineers in the most proficient way shall reduce the number of registry errors, which in its turn shall improve the quality and reliability of the contained in EGRN data as well as enable to make the most efficient and effective use of the resources in our country.

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