

REAL ESTATE REGISTRATION IN BRAZIL: ORIGIN, EVOLUTION AND PRINCIPLES



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ABSTRACT

The present work proposes to analyze the origin, evolution and principles applicable to the real estate registration system in Brazil. The research will have as its starting point the year 1843, the date of enactment of the Budget Law that dealt with the registration of mortgages and originated the current system. Other important dates will be the object of study, as they are essential for understanding the evolution of the system, such as 1864 (Law 1,237), 1916 (Civil Code), 1939 (Decree 4,857), 1973 (Law 6,015) and 2015 (Law 13,097). The fundamental aspects that concern the basic principles that guide the system will also be worked on. To this end, the principles called publicity, authenticity, safety, efficacy, obligation, territoriality, continuity, specialty, priority, typicality and concentration will be analyzed. Doctrinal and legislative research will be carried out in order to examine and understand the origin, evolution and principiology linked to the real estate registration system in Brazil.

Keywords: Real estate registration, Brazil, Origin, Evolution, Principles.

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INTRODUCTION

The current Brazilian real estate registration system, as we know it, originated in the mid-nineteenth century. The years 1843 and 1864, as will be demonstrated, are important dates for the system.

The year 1843 was relevant due to the need to publicize mortgages, an essential mechanism for credit protection. However, real estate property continued to be legally transmitted by tradition, along the lines of what currently occurs with the transfer of movable property.

The year 1864, in turn, was notable for inserting a legal list of real rights. The Civil Code, enacted in 1916, determined the registration of acquisitions *causa mortis* or by judicial title and established the principle of relative presumption.

Other dates also influenced the evolution of the real estate registration system: 1928 (Decree 18.542), which introduced the principle of continuity of registration; 1939 (Decree 4,857), which provided for the hypotheses of registration and annotation acts; 1973 (Law No. 6,015), which provided for different procedural and procedural aspects of the registration of real estate; 2015 (Law No. 13,097), which reinforced the effectiveness of real estate registration and introduced unenforceability and public faith in registration.

The origin and evolution of the real estate registry would not have occurred without some guiding principles. There are the basic foundations that inform the entire notarial and registration system, provided for in Federal Law No. 8,935/1994: publicity, authenticity, security and effectiveness.

There are also specific principles applicable to the registration of real estate, which were either born before and together with the system and were improved, or were born later to improve the system. These are the principles of obligation, territoriality, continuity, specialty, priority, typicality and concentration.

The description of the elementary idea of each principle will help us understand the need and importance of the existence of a coherent and integrated real estate registration system. After all, the protection and publicity of real estate property remain fundamental for the circulation of credit in our country.

ORIGIN AND EVOLUTION OF THE REAL ESTATE REGISTRY IN BRAZIL

The registration of real estate as currently conceived originated in our country in the mid-nineteenth century. It is explained: in 1843 Budget Law 317 was enacted, regulated by

Decree 482/1846, which aimed to publicize mortgage records. However, it was only in 1864, with the enactment of Law 1,237, regulated by Decree 3,453/1965, that advertising began to cover acts other than mortgages. According to the doctrine of Ivan Jacopetti do Lago,

Until 1846 there was no means of real estate advertising in Brazil that produced legal effects, either in terms of the constitution of real rights and transmission of property, or in terms of its effects in relation to third parties. In fact, in the law prior to the civil codification, materialized in the Philippine Ordinances and in the extravagant legislation, the domain was transmitted with the tradition of the good.³

Thus, at least until 1846, real estate ownership in Brazil was transmitted by tradition, along the lines of what happens with movable property today. The publicity of the transmission began to be ventilated from 1846, when the law that dealt with the publicity of mortgages was enacted:

As in Portugal and Spain, real estate advertising in Brazil did not have the beginning of its development based on the advertising of the property itself, but rather on the mortgage. The mortgage was the great institute of nineteenth-century civil law, marked by the need to guarantee the circulation of credit. Until the enactment of Law 1,237 of 1864, transmissions and real rights over real estate continued to be made by contract followed by tradition, without any publicity. It was the purpose of the registry to make public the state of the fortune of citizens regarding the legal status of their real estate, in order to repress fraud that could afflict third parties and honor good faith. With this, it was intended to create more effective mechanisms to satisfy creditors, by obtaining, in the foreclosure of the asset, the amount that was due to them. These improvements depended on the existence of a good mortgage system, an institution that was already being created, at this time, in many European countries. Without the legal and institutional arrangement that a mortgage system represents – that is, the combination of clear rules and efficient and secure means of advertising – mortgages would not be effective and could not generate effects against third parties.⁴

In other words, the publicization of real estate property originated from the need to publicize the mortgage, and not the other way around. The interest in the creation of a real estate registration system that has publicity as its basic principle was possible only due to the urgency of protecting the credit. The opposite is not true, since it cannot be said that by virtue of the principle of publicity it is possible to visualize the mortgages issued on real estate properties. It is the opposite: the need for credit protection gave rise to the principle of publicity in the real estate registry.

³ LAGO, Ivan Jacopetti do. History of real estate registration. 2. rev. and current ed. São Paulo: Thomson Reuters Brasil, 2022. Real Estate Law Collection; v. 1. Alberto Gentil de Almeida Pedrosa, coord. p. 177.

⁴ LAGO, Ivan Jacopetti do. History of real estate registration. 2. rev. and current ed. São Paulo: Thomson Reuters Brasil, 2022. Real Estate Law Collection; v. 1. Alberto Gentil de Almeida Pedrosa, coord. p. 181.

However, as seen, even after the enactment of Budget Law 317, which took place in 1843 and was regulated by Decree 482/1846, the transfers of real estate rights continued to be made by the contract followed by tradition. Real estate registration was not yet required, which applied only to mortgages:

(...) on October 21, 1843, Budget Law 317 was issued, which contained in its article 35 a single provision creating a "general register of mortgages, in the places and in the manner that the Government establishes in its regulations".

It should be noted that the provision does not properly determine the creation of a mortgage system, or a mortgage law. In fact, it not only determines, but creates a mortgage registry, attributing to the Government all its regulation.

(...).

Brazilian legislation only required the registration of conventional mortgages, not doing so with regard to legal and judicial mortgages, which would be very useful. As a result, article 35 of Budget Law 317, of October 21, 1843, regulated by Decree 482, of November 14, 1846, ended up introducing the registration of mortgages in Brazil very narrowly.

Despite this, the 1843 system effectively constitutes real estate advertising. More than symptoms of publicity, the publicity generated was qualified, and produced legal effects. Therefore, in 1843, the first manifestation of the phenomenon of real estate registration in Brazil took place.⁵

It can be seen that, although it did not determine the need for registration for the validity of the tradition of a property, Budget Law 317 germinated what we currently know as the real estate registration system in Brazil. In other words, although there are doctrinal divergences about which legislation effectively preceded the current system of real estate registration in our country, there is no doubt that the Budget Law enacted in 1843 was the seed that gave rise to the current system.

It so happens that the registration provided for by the law enacted in 1846 did not offer the necessary guarantee for the creditor to protect himself. This is because only conventional mortgages were expected to be registered. Thus, it was possible for a property to be foreclosed with a mortgage even if it had already been disposed of:

The 1846 registration did not offer much encouragement, since, even though the creditor had the information that there were no conventional mortgages on the property, nothing guaranteed him that there were no privileged and hidden mortgages, or even that the property had not already been sold. As for the effects of the transcription, it stated that having the transcription as inalienable proof of ownership would depend on a decision based on contentious jurisdiction, with summons to the parties and interested parties, exhibition of the domain titles, discussion of the evidence and delivery of a decision that would cover the validity of the contract, the legitimacy of the contracting parties and the legitimacy of the property.⁶

⁵ LAGO, Ivan Jacopetti do. History of real estate registration. 2. rev. and current ed. São Paulo: Thomson Reuters Brasil, 2022. Real Estate Law Collection; v. 1. Alberto Gentil de Almeida Pedrosa, coord. Pp. 183/184.

⁶ LAGO, Ivan Jacopetti do. History of real estate registration. 2. rev. and current ed. São Paulo: Thomson Reuters Brasil, 2022. Real Estate Law Collection; v. 1. Alberto Gentil de Almeida Pedrosa, coord. p. 191.

Thus, although it was an advance in relation to previous regulations, the law enacted in 1843 and regulated in 1846 lacked some instruments to actually safeguard and protect the rights of creditors. In 1864, with the enactment of Law 1,237, another step was taken towards strengthening the real estate registration system in Brazil:

(...). Law 1,237, of 1864, is shown to be a fundamental milestone not only of Real Estate Registry Law, but also of the discipline of real rights in Brazil. Until then, there was no legal list of real rights, essentially applying the Roman Justinian Law in the matter, as a subsidiary law to the Philippine Ordinances, which dealt very little with the subject.

In the system of Law 1,237, limited real rights could not be opposed to creditors of mortgages registered prior to them. However, encumbrances instituted by *causa mortis acts* were valid regardless of transcription, even against mortgage creditors. In this point – dealing with limited real rights – the Brazilian System was similar to the German System, since the principle of inscription was adopted.⁷

It should be noted that the principle of publicity of the real estate registration system has been improved in order to more effectively protect the right of the mortgage creditor. Even so, Law 1,237 was not able to fill all the gaps in the system. Only with the issuance of new normative instruments was it possible to improve the Brazilian real estate registry. In this sense, the Civil Code of 1916 was fundamental:

The Civil Code of 1916 was decisive for laying the foundations of the registration system that was in force in Brazil throughout the twentieth century and part of the twenty-first century, and, soon after its entry into force, it began to generate vivid controversy in the national civil doctrine in the field of the effectiveness of the Real Estate Registry. With authors, in general, joining one of two positions, the discussion lasted at least until the 1940s.⁸

The Civil Code of 1916 determined the registration of acquisitions *causa mortis* or in a judicial capacity and established the principle of legitimation (relative presumption that what is in the registration is valid, until the registration is canceled)⁹.

Several other normative instruments were issued and improved the real estate registration system in Brazil between 1916 and 2024. We can highlight the following: Decree 18.542, of 1928, which introduced the principle of continuity of registration¹⁰; Decree 4,857, of 1939, which provided for the hypotheses of registration and annotation

⁷ LAGO, Ivan Jacopetti do. History of real estate registration. 2. rev. and current ed. São Paulo: Thomson Reuters Brasil, 2022. Real Estate Law Collection; v. 1. Alberto Gentil de Almeida Pedrosa, coord. p. 194.

⁸ LAGO, Ivan Jacopetti do. History of real estate registration. 2. rev. and current ed. São Paulo: Thomson Reuters Brasil, 2022. Real Estate Law Collection; v. 1. Alberto Gentil de Almeida Pedrosa, coord. p. 205.

⁹ LAGO, Ivan Jacopetti do. History of real estate registration. 2. rev. and current ed. São Paulo: Thomson Reuters Brasil, 2022. Real Estate Law Collection; v. 1. Alberto Gentil de Almeida Pedrosa, coord. P. 219.

¹⁰ LAGO, Ivan Jacopetti do. History of real estate registration. 2. rev. and current ed. São Paulo: Thomson Reuters Brasil, 2022. Real Estate Law Collection; v. 1. Alberto Gentil de Almeida Pedrosa, coord. P. 216.

acts¹¹; Law No. 6,015/1973, which provided for different procedural and procedural aspects of real estate registration; Law No. 13,097/2015, which, through articles 53 to 62, reinforced the effectiveness of the real estate registry and introduced the unenforceability and public faith of registration¹².

Having briefly analyzed the origin and evolution of the real estate registration system in Brazil, let us now examine its basic principles.

THE PRINCIPLES OF REAL ESTATE REGISTRATION

Federal Law No. 8,935/1994 informs the basic principles applicable to the notarial and registration activity: publicity, authenticity, security and effectiveness¹³. In relation to the real estate registration system, as it evolved in Brazil, other principles were incorporated into the activity, such as obligation, territoriality, continuity, specialty, priority, typicality and concentration. We will briefly analyze each of these commandments.

Let's start with advertising. According to Orlandi Neto's lesson,

Publicity is in the essence of public records, and should appear in article 1 of Law 6.015/1973, along with the authenticity, security and effectiveness of legal acts, as the reason for their existence.

In Marcelo Salaroli de Oliveira's concept, real estate registry advertising "consists of technically organized records, intended to promote knowledge, by any interested party, of the legal situation of real estate, whose effect, at least, is the unassailable presumption of knowledge".

Availability of information and effectiveness of the record are attributes of advertising in the Real Estate Registry. The records and annotations produce effects and are presumed to be known by all, who have unconditional access to them.¹⁴

The availability of information and the effectiveness of the registry records, attributes of the principle of publicity, are materialized through the issuance of certificates. Thus, any interested party has the legitimacy to request the issuance of certificates referring to the records drawn up in the public registry books.

Article 16 of Law 6.015/1973 informs that the officers and representatives of the registry offices are obliged to draw up a certificate of what is required of them and provide

¹¹ LAGO, Ivan Jacopetti do. History of real estate registration. 2. rev. and current ed. São Paulo: Thomson Reuters Brasil, 2022. Real Estate Law Collection; v. 1. Alberto Gentil de Almeida Pedrosa, coord. p. 249.

¹² LAGO, Ivan Jacopetti do. History of real estate registration. 2. rev. and current ed. São Paulo: Thomson Reuters Brasil, 2022. Real Estate Law Collection; v. 1. Alberto Gentil de Almeida Pedrosa, coord. p. 226.

¹³ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l8935.htm. Accessed on: 28 Jun. 2024.

¹⁴ ORLANDI NETO, Narciso. Real estate registration. 1. ed. Rio de Janeiro: Forense, 2023. p. 145.

the parties with the requested information¹⁵. Publicity, therefore, is of the essence of real estate registration.

Authenticity, security and effectiveness are general principles of public records, and do not apply only to the registration of real estate. According to Vitor Frederico Kümpel, authenticity

(...) is the quality of what is authentic, that is, a formality indispensable for the validity of a document. "Authentic", in turn, comes from the Greek *authentos*, and means "solemn", "incontestable". They are all documents emanating from authorities and accompanied by formulas required by law. The term "authenticity", therefore, corresponds to the certainty that the information comes from a person invested in the practice of that act (competence), and that it has not been mutated. The principle of authenticity translates the confirmation of the veracity of legal acts and transactions, both from the perspective of their parties (legitimized to do so) and from the bias of their content. Authenticity, in this sense, is obtained through the intervention of notaries and registrars, who will guarantee the conformity of the act performed to what actually occurred in the factual and volitional sphere.¹⁶

It can be said that authenticity refers to the confidence that the information obtained through the public record comes from someone in charge of the practice of the act and that such act has not been subject to modifications.

The principle of security, in turn, refers to legal certainty, which is the main purpose of the notarial and registry system, as it seeks to avoid conflicts and formalize acts and facts in line with what the legal system prescribes¹⁷. According to Ricardo Dip,

Legal certainty is the purpose of public records, a reality that, therefore, sub *modo* intentional, has the primacy of illuminating and guiding the means of action of the registry entity and of giving consistent permanence to its result. Legal certainty gives completeness to the record, it is its perfection (or entelechy): precisely because of its relevant illuminating and conductive function of registration practices, legal certainty does not operate on one or more isolated aspects of the record, but rather acts on each record in its entirety – whether in its process (*in itinere*), or in its term (*in facto esse*) – influencing it, dynamically, as a record in progress, and concluding it in a perfective way (finished thing, finalized – *res effecta*).¹⁸

Legal certainty, therefore, is one of the bases of the entire notarial and registry system, and does not apply only to the registration of real estate.

¹⁵ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l6015compilada.htm?utm_test=test. Accessed on: 28 Jun. 2024.

¹⁶ KÜMPEL, Vitor Frederico. Notarial and registry law in summary. 1. ed. São Paulo: YK Editora, 2023. pp. 72-73.

¹⁷ KÜMPEL, Vitor Frederico. Notarial and registry law in summary. 1. ed. São Paulo: YK Editora, 2023. p. 73.

¹⁸ DIP, Ricardo. Real estate registration (principles). Descalvado, SP: Editora PrimVs, 2017. p. 25.

Effectiveness also concerns the entire notarial and registry system, and refers to the production of effects. According to Kümpel's lesson, "it follows from the principle of effectiveness that the acts that require the intervention of the holder of the delegation must produce or be able to produce their regular effects, according to the applicable legal provision".¹⁹

Publicity, authenticity, security and effectiveness, as seen, are related to the entire notarial and registration system. Let us then move on to the analysis of the principles that belong to the real estate registry.

The obligation informs that the acts provided for by law must be registered, even if there are no deadlines or sanctions for non-compliance. The principle can be extracted from the reading of article 172 of Law No. 6,015/1973:

Article 172 - In the Real Estate Registry, under the terms of this Law, the registration and annotation of titles or constitutive, declaratory, translativo and extinguished acts of real rights over real estate recognized by law, "inter vivos" or "mortis causa" shall be carried out, either for its constitution, transfer and extinction, or for its validity in relation to third parties, or for its availability.²⁰

Thus, although there is no deadline for the presentation of the title or sanction for those who fail to do so, the constitutive, declaratory, translativo and extinguishing effects of real estate rights are only substantiated after the registration of the title. Thus, the constitution, transfer, extinction and availability of real estate rights operate only after the entry of the title in the real estate registry, which demonstrates that its presentation is mandatory.

The principle of territoriality concerns the real estate district. According to Orlandi Neto's lesson,

Unofficially, the national territory is all divided into real estate districts, which are assigned to the Real Estate Registry Offices. Each service corresponds, exclusively, to a real estate district and vice versa. All acts relating to real estate located in a given real estate district can only be carried out at the respective notary's office. The registry office in which the title must be registered is not elected. There is no longer the choice of the registrar, as there is the choice of the notary.

(...).

(...) According to the principle of territoriality, all acts related to real estate located in the district must be performed at the respective notary's office. Exceptions are exclusively provided for by law and only exist for the convenience of the service.²¹

¹⁹ KÜMPEL, Vitor Frederico. Notarial and registry law in summary. 1. ed. São Paulo: YK Editora, 2023. p. 73.

²⁰ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l6015compilada.htm?utm_test=test.

Accessed on: 28 Jun. 2024.

²¹ ORLANDI NETO, Narciso. Real estate registration. 1. ed. Rio de Janeiro: Forense, 2023. pp. 15-16.

The principle of territoriality is contained in *the caput* of article 169 of Law No. 6,015/1973: all acts will be carried out in the service of the situation of the property. Also according to Orlandi Neto's lesson, this is an essential formality, as there will be no publicity if the rule of territoriality is not complied with. Thus, the effects of the registration provided for in article 1,227 of the Civil Code will not be produced if the registration is made in the wrong service.²²

Continuity is also a basic principle of the land registry system, meaning that the records must follow a chain:

(...) The filiatory line of property rights and other real estate rights resembles a chain to which there is no lack of links. It must be continuous. Whoever appears in one link as an acquirer will become a transferor in the next link. This explains why this principle is also known as successive treatment, continuous treatment, prior registration, prior registration of the person harmed by the registration, or registration of the previous title.²³

In other words, continuity prescribes that the transferor of a right must appear in the registry as the holder of that right. As an example, a public deed of purchase and sale will only be entered in the real folio if the seller qualified in the title appears in the registration of the property as the owner. There are exceptions to the principle, as in the case of adverse possession, as it is an original acquisition. However, the rule prevails that there should be no jumps in the chain of rights and real burdens. Thus, if the transferor is not yet included in the real estate book, the system requires that the missing link in the chain be connected, that is, that its acquisition title is first registered. This is what is provided for in articles 195 and 237 of Law No. 6,015/1973.²⁴

The principle of specialty is subdivided into objective and subjective specialty. The objective specialty indicates that the properties must be attributed individualizing characteristics that, as a whole, make it unmistakable.²⁵ According to article 176 of Law No. 6,015/1973, each property will have its own registration and will be identified through its characteristics, confrontations, location, area, street, number and cadastral designation. Thus, the description of the property in the title that intends to be entered in the real estate registry must coincide with the description of the property contained in the registration.

²² ORLANDI NETO, Narciso. Real estate registration. 1. ed. Rio de Janeiro: Forense, 2023. p. 16.

²³ ORLANDI NETO, Narciso. Real estate registration. 1. ed. Rio de Janeiro: Forense, 2023. pp. 110-111.

²⁴ ORLANDI NETO, Narciso. Real estate registration. 1. ed. Rio de Janeiro: Forense, 2023. p. 111.

²⁵ ORLANDI NETO, Narciso. Real estate registration. 1. ed. Rio de Janeiro: Forense, 2023. p. 92.

The subjective specialty, on the other hand, applies to people, who must be identified by name, domicile, nationality and CPF, in the case of an individual and, in the case of a legal entity, by name, registered office and CNPJ, all according to article 176 of Law No. 6,015/1973. The subjective specialty informs that the people described in the title must coincide with the qualified people in the real estate registry books.

Another important principle related to the registration of real estate is called priority. Article 186 of Law No. 6,015/1973 reveals that the order number will determine the priority of the title, and this the preference of the real rights²⁶. The principle means that,

if there are contradictory titles noted, the one that has been prenoted before must be registered. Priority in the registration is the title that received in the Protocol Book the lowest order number.

In the confrontation of contradictory titles submitted simultaneously to the qualification, the records must follow the order of the prenotations. The order of the records determines the preference of the rights in rem.²⁷

Thus, priority is both a principle and a rule according to which the title submitted before takes precedence over the adversarial instrument submitted subsequently. This rule must be observed very carefully in the real estate registry, so that the system has security and coherence.

The principle of typicity informs that only titles provided for by law are registrable. The list of titles eligible for registration is contained in article 221 of Law No. 6,015/1973. According to Kümpel,

The list of the aforementioned article 221 is *numerus clausus*, since documents that do not assume the form provided for by law are not allowed to enter the royal folio. Notwithstanding the exhaustive nature of the list, it must be concluded that it is not exhaustive, insofar as there are documents not listed in the list, which are suitable for registration by legal provision. This is the case of administrative titles, such as titles of legitimation of possession, land legitimation and administrative registrations, which formally enter the royal folio in view of the specific legal provision. Thus, the list in question is exhaustive, but not exhaustive, hence it is stated that the registrable titles are not exhausted in article 221 of Law No. 6,015/1973 itself. Therefore, others are included in the royal folio, provided that they are provided for by law in the strict sense, to the extent that the Real Estate Registry is bound by the principle of strict legality.²⁸

Thus, although article 221 of Law No. 6,015/1973 informs that only the titles described in items I to VI are registrable, other titles may also be entered in the real estate

²⁶ BRAZIL. Available at: https://www.planalto.gov.br/ccivil_03/leis/l6015compilada.htm. Accessed on: 28 Jun. 2024.

²⁷ ORLANDI NETO, Narciso. Real estate registration. 1. ed. Rio de Janeiro: Forense, 2023. P. 33.

²⁸ KÜMPEL, Vitor Frederico. Notarial and registry law in summary. 1. ed. São Paulo: YK Editora, 2023.

registry books, provided that they are provided for by law. This leads to the affirmation that the list of article 221 is exhaustive, but not exhaustive, since other titles expressly provided for by law are also included in the royal folio. This principle is called typicality.

The principle of concentration determines and at the same time allows any occurrences that affect or may affect the property to be registered and recorded in the registrations. Therefore, all the real rights, encumbrances and restrictions related to the same property are concentrated in a single book.²⁹ According to Orlandi Neto, Law 6.015/1973 had the merit of concentrating all acts in a single book:

The titles are recorded by extract on this sheet, which is the registration of the property. There is no longer a specific book for mortgages, nor for records other than those transferring property, nor for subdivisions and building condominiums, but a general book, which gathers the registrations of all properties and collects all acts related to it. It is as if the real indicator had been increased, with the description of the property and the release of the title statement, instead of the simple reference.³⁰

Thus, the current real estate registration system conspires so that all acts related to the property are entered in its registration, which contributes to the security, effectiveness and publicity that guide public records. Law No. 13,097/2015 also reinforces the principle:

(...) it is true that the approval of Law No. 13,097/2015 (specifically with regard to articles 54 to 62, which deal with the registration in the registration of real estate) constitutes a considerable advance for the real estate registration procedure, taking a firm step towards the system of public registration faith, particularly by affirming the – until then only doctrinal – "principle of concentration of acts", which, from a legislative point of view, modified the registry panorama to determine greater protection for the third party acquirer in good faith, given that what is not "concentrated" in the registration cannot be subject to an exception to the acquisition of the domain or any real right by it.³¹

The recent legislative change, as exposed above, reveals that the system of registration legitimation, adopted by Brazilian doctrine and jurisprudence and which protects the third party in good faith, even if the allegation is not publicized in the registration of the property, has been mitigated. This is because the principle of concentration, now affirmed in Law No. 13,097/2015, has strengthened the system of public registration faith, as there is

²⁹ ORLANDI NETO, Narciso. Real estate registration. 1. ed. Rio de Janeiro: Forense, 2023. p. 51.

³⁰ ORLANDI NETO, Narciso. Real estate registration. 1. ed. Rio de Janeiro: Forense, 2023. p. 51.

³¹ SIQUEIRA, Alexis Mendonça Cavichini Teixeira de. Absolute presumption and the systems of real estate registrations: *dormientibus non succurrit ius*. Rio de Janeiro: COP Editora, 2022. p. 66.

no other database more suitable than the public registries themselves to concentrate any information on real estate and its respective rights holders.³²

FINAL CONSIDERATIONS

In view of the analyzed picture, it is concluded that the normative acts issued in the years 1843 and 1864 were essential for the origin of the current real estate registry in Brazil. After these dates, what happened was the evolution and improvement of the system itself through the construction of principles.

Some principles inform all notarial and registration activity: publicity, authenticity, security and effectiveness.

Publicity is at the heart of public records and is intended to promote knowledge, by any interested party, of the legal status of real estate. Authenticity, in turn, translates the confirmation of the veracity of legal acts and transactions.

Legal certainty is the main purpose of the notarial and registry system, as it aims to avoid conflicts and formalize acts and facts in line with what the legal system prescribes. Effectiveness, on the other hand, refers to the production of regular effects, as provided for by law.

Other principles guide the registration of real estate, in a specific way. The obligation, for example, determines that the acts provided for by law must be registered, even if there are no deadlines or sanctions for non-compliance. The territoriality informs that all acts will be carried out in the service of the situation of the property, being an essential formality.

Continuity, another principle related to the registration of real estate, prescribes that there should be no jumps in the chain of rights and real encumbrances. Thus, if the transferor of a right is not yet entered as an owner/creditor in the real estate book, prior registration is required, so that the system has security, reliability and coherence.

The principle of specialty (objective and subjective) indicates that both the property and the parties must be properly characterized and qualified in the real estate books, as this also guarantees the desired security of the system.

The priority informs that, if there are prenotated contradictory titles, the one that has been previously noted must be registered. The typicity reveals that the titles provided for in

³² SIQUEIRA, Alexis Mendonça Cavichini Teixeira de. Absolute presumption and the systems of real estate registrations: *dormientibus non succurrit ius*. Rio de Janeiro: COP Editora, 2022. p. 66.

the list of article 221 of Law No. 6,015/1973 are exhaustive, but not exhaustive, as there are documents not listed in the list that are suitable for registration by legal provision.

The concentration determines and enables any occurrences that affect the property to be entered in the registration. Thus, the objective is to concentrate, in a single book, everything that concerns the property. This principle, previously accepted in doctrine and jurisprudence, was introduced legislatively in 2015, through Law No. 13,097, which demonstrates that the real estate registration system continues to evolve, contributing to the legal certainty affecting real estate property.

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