

UNITED NATIONS ECONOMIC and SOCIAL COUNCIL

Distr.
LIMITED

50089
E/CN.14/CART/273
3 August 1971

ENGLISH

Original: FRENCH



ECONOMIC COMMISSION FOR AFRICA

Seminar on Cadastre

Addis Ababa, 25 November - 9 December 1970

BRIEF NOTES ON THE SYSTEM OF LAND TENURE

IN THE REPUBLIC OF CHAD ^{1/}

(Presented by the Government of the Republic of Chad).

I. BEFORE INDEPENDENCE

As in many of the States of Equatorial Africa, Chad's system of public and private land tenure is based on the French decree of 28 March 1899 and on the subsequent modifying texts. This system has not been very successful and Africans have proudly clung on to their respective "concessions", because they enjoyed a material hold over the land (habitation, farming, grazing, fishing in certain water courses), until 1960 and beyond.

II. Upon the attainment of INDEPENDENCE in 1967, new texts were promulgated which took account of the new situation. The law of property divides property into two separate categories: public land holdings, which are untransferable, imprescriptible and not distrainable, and private landholdings, which can be let or transferred.

Private landholdings are in turn, divided into urban property and rural property. The demarcation of boundaries of subdivisions of urban property is carried out by the department of cadastral and topographical surveys. Only those plots within the allotted areas may be assigned. Consequently, this department holds plans available for the Land Registration Department, and for any individual wishing to acquire a plot. No transfer of land may be carried out outside the areas duly delimited by the cadastral survey. Upon my arrival in Chad, I shall forward to ECA a full report on cadastral and topographical surveys. With regard to common law rights, all such rights are barred by statute at the end of ten years.

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III. REGISTRATION

1. Registration is the operation by which a parcel of land or building becomes subject to Land Registration regulations. It therefore constitutes the handing over of a title to property, known as absolute and indefeasible property title. Registration is obligatory when a concession or permission to occupy is transformed into ownership by the granting of absolute title. Registration therefore constitutes the very basis of our land tenure system and is the logical consequence of provisional title, as and when the land granted has been developed in accordance with the relevant articles and conditions.
2. The order granting absolute title, marks the closure of the file as far as the prefectural authorities are concerned. The property then becomes subject to the regulations of the Land Registry and all actions relating to the ownership are decided by direct contact between the owner and the Land Registrar, and are adjudicated by the civil court of the area in which the property is situated. Moreover, in order to avoid any delay which might be caused by the administrative authorities in granting absolute title and, consequently, in the request for registration, the legislator shall specify that "if within a period of six months from the verification of development the administrative authorities have issued no statement concerning the assignment of absolute title the assignee or adjudicator may claim registration".
3. Registration can therefore be claimed by the owner, the usufructuary, the beneficiary of emphyteusis, and even the holder of a mortgage pledge. Any applicant may therefore submit his request to the Registrar accompanied by all documentary evidence which he may deem relevant in establishing his ownership. Registration may also be ordered by the judicial authority for the registration of a mortgage or the compulsory sale of the property.
4. The claim for registration received at the Land Registry is recorded in the Provisional Register. The Registrar then prepares a certificate from this which is published in the Journal officiel de la République, or in any other legal journal, on the property itself, at the sub-prefecture and at the local Land office. This is done in order to ensure wide publication. At the same time, the cadastral survey department, having been informed by the Registrar, carries out the necessary verifications, both on the property itself and on the existing plans. The date of publication of the Journal officiel, or of the legal journal, marks the commencement of a period of 20 days for boundary marking operations. The boundary marking date is published in the Journal officiel and posted at the sub-prefecture, at the local property office and on the property. This publication marks the commencement of a two-month period for any objections or protests against the boundaries. Upon the expiry of this period and providing that there are no objections, the complete file, with the plan of the property is submitted by the Registrar to the presiding magistrate of the court of first instance of

the area in which the property is located. The presiding magistrate, after careful examination of the said file, issues a registration order. In short, the period required to obtain absolute title to a property is three months, if everything is in order. If there are any objections, the presiding magistrate adjudicates, and orders registration if the objections are unfounded, and prohibits registration if there are grounds for the objections, or alternatively, issues an order for registration while specifying the conditions under which registration is possible in respect of real rights and modification of the plan; all parties concerned are then notified of the order.

The legislator also specifies that the order of the presiding magistrate is open to appeal within two months of notification within the limits provided by the civil code. In the course of the appeal procedure, the real rights may be recorded in the Register of Objections and Real Rights, prior to registration of title. This information is also given in the request of the Registrar to the presiding magistrate.

5. Following registration

- One copy only must be circulated.
- If the property concerned is jointly owned, copies authenticated by the signature of the Registrar are delivered on behalf of all the co-owners and to each one of them if they so request.
- In the case of a sole owner, he is entitled to a registered copy. The other parties involved, including creditors, are entitled only to registration certificates.
- Any judgements, agreements, and all acts which result in the transfer, establishment, modification, or extension of a right of ownership or property title, or a change of title holder, must be entered on, or where necessary, struck from the title deed. And all acts, agreements, or judgements of the same type as those referred to above and which are not required by law to be registered, must, in order to be demurrable, be entered on the Title Deed.
- Mortgages exist in respect of third parties and are considered as creditors only from the day on which they are recorded, and any person who requests the registration of a right of property must obtain this right directly from the holder of the preceding registration.

6. Effects of registration

- Once delivered, the title deed constitutes a guarantee to the owner as holder of the rights, provided that the procedure leading up to registration allows of exact and precise identification of the