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A new property regime in Kyrgyzstan; an investigation into the links between land reform, food security, and economic development

Dekker, H.A.L.

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CHAPTER 14. THE LAND AND REAL ESTATE REGISTRATION PROJECT

14.1 NEW LAND REGISTRATION

14.1.1 CONTRADICTIONARY DATA AND POOR MAPPING

The project for Land and Real Estate Registration has been considered and studied during the land and agrarian reform project in Kyrgyzstan. It was originally intended to be one of the institutional arrangements being operational before the actual start of land distribution. And although from the very beginning the possibility of a new system for land registration had been investigated, the preparation phase for such a project in the Kyrgyz Republic started as a relatively small project about eight years after the process of land reform began in the country. The reality now is that most farmers have taken possession of their land or have distributed the land among themselves on the basis of land certificates prepared and issued by agencies other than the new land registration organization.

Because of low quality of the mapping available in Kyrgyzstan and the way documents have been 'interpreted' by several of the new owners, discrepancies are common between the written documentation and the actual situation on the ground. One reason for this is the system of production quota used in Kyrgyzstan during Soviet times. The magnitude of those quota increased exponentially with the size of the land holdings. Farm managers often shrank the size of holdings on paper to reduce the quota that had to be produced for the State. In chapter one an example of this practice is given by Katherine Verdery [96] with the 'elasticity' of land in Transylvania. Nowadays surveyors in the Kyrgyz Republic are regularly confronted with land sizes on paper that do not comply with the actual size on the ground. This is an example of non-integrity of land related data. Sometimes informed participants have taken advantage of this knowledge at the time of land distribution. Some people in rural areas have house plots of over one ha, indeed a considerable size. With the poor mapping in some areas, there is ample opportunity for contradictions and this sometimes causes land conflicts and disputes.

14.1.2 RENEWAL OF MAPPING

It was often mentioned during the preparatory phase that after establishing the new system of land registration in Kyrgyzstan, the payment of services by users of the system would be allocated towards renewal of the geographical data in the system to improve the integrity of the land related data. Only time will tell if demand for registration services is sufficient to receive enough income not only to pay for the services but also to provide for a surplus in resources that this can be used for such an expensive and time-consuming task in a country where so many other expensive priorities put pressure on the budget of the government.

Currently the proposal is that new registration offices will use as much as possible the existing documents and will try to register the actual situation as long as that does not conflict too much with the records provided. Given the deep rooted bureaucracy, visits for a technical inventory on the ground are still considered to be an essential element, because of the assumed responsibility to register only what is actually proven to be true by observation of the registering official. Global experience with land registration reveals that this is a costly and time-consuming procedure.

The preparatory phase was completed at the beginning of 2000. It does not make much sense to assess this project with the model at this stage. Nevertheless a few remarks can be made.

14.2 IMPLEMENTATION OF NEW REGISTRATION

14.2.1 NEW OFFICES

At the end of the preparatory phase of the project in early 2000, the authorities had approved the documentation describing the procedures. A schedule for the opening of offices where the new registration system would be implemented had been agreed upon. It showed four offices to be opened in 1999 and 44 more in 2000 and 2001 (See annex D). Instructions for staff of the newly opening offices were ready and distributed. The expatriate consultants organized several training sessions with staff of those offices to be the first to open. Selected staff was trained to be trainer for staff of offices to be opened in the year to come. All the relevant forms for land registration had been developed and the maps covering the areas for the newly opening offices was prepared out of existing mapping.

Unfortunately the approval process of the regulations for the opening of new offices with all the ministries and agencies involved took more time than initially anticipated by GosRegister. This was undoubtedly a setback for the project, because the opening of offices took place before approval and so had to be a kind of 'low-key' affair, not drawing too much attention. As mentioned earlier also a scheduled public awareness campaign highlighting the new system of registration of rights to real property was postponed due to the continued absence of approval by government agencies for the regulations for opening of new registration offices. Although this public awareness campaign was specifically targeted at land registration issues, it could have assisted indirectly with more general issues of ownership of real property as well. Thus the opening of new offices became a local affair and general information about the new procedures of registration could only be distributed by the offices themselves (and generally on request of potential customers). It is difficult to estimate the effect of the absence of a larger scale public awareness campaign, but it most likely would have made a difference for the awareness of new opportunity sets among the Kyrgyzstani. Moreover, opening of new registration offices is behind schedule and the streamlining of the registration process is frustrated by government agencies that try to retain some of the profitable activities, which, after formal approval of the regulations for opening of the new offices are projected to be solely a responsibility of GosRegister. For example notaries in the Ministry of Justice charge relatively high fees for transfers of real property (around 40 \$ to benefit the Ministry), while GosRegister recently started to provide competing notary services for around 10\$. It is hoped that competition will start to work here.

14.2.2 STAGNATING DEVELOPMENT

Recent data that has been reported by the three newly opened offices in 1999 show no significant changes in the number of transactions in real property before and after opening of the office. Only a short time has elapsed since the opening and these results are not too meaningful yet. The numbers only give an indication. It will take time for the citizens to get used to the new system. A certain period of at least several years is needed before the stabilization of the new relative economic positions and the possibilities that come with it

become common among citizens. The Kant office reported 145 transfers in October 2000, so still about the same level as the previous year.

Average number of monthly transfers	Last months before new office opened	First months after new office opened
Kant (open end of October 1999)	133	142
Kara – Suu (open mid November 1999)	167	160
Sokuluk (open December 25 1999)	159	112

On paper regulations for the institutional change have been completed, but execution of the changes is behind schedule. Some of the conditions for an effective and efficient implementation of institutional changes are not yet in place. Moreover, it seems that the new system for land registration in Kyrgyzstan is only a slight improvement of the existing – albeit cumbersome – system of registration of real property. The new system will be welcomed in providing a one-stop-shop for citizens, and it will promote a unified national registration system. In itself quite a task. But the new system so far has not solved the continuing need to use relatively expensive services of a notary. Nor did it include identification of the real property by means of adequate mapping as part of the project for land and real estate registration. Neither has it eliminated one of the most costly practices – the technical inventory of the real property object on the ground as part of the registration process has been maintained in current procedures.

The perspective is that the new standardized system for registered alphanumeric data will improve understanding and usability of the land registration system. It is important to show that it is worth the cost involved. If citizens can be convinced that the information value of the registered data results in a considerable reduction of uncertainty, the land registration project will become a success. But the project for land and real estate registration takes place in almost complete isolation without institutionalized connections with other (donor driven) projects to stimulate the land market or other incentives for development of the economy. During the project assignment there have been no formal contacts with other projects or with government agencies outside the Gosregister organization. It was hard to find out whether there were other more or less parallel donor funded projects going on in the country and when found out the contacts were always informal. If this isolated situation continues the result will be that the Land And Real Estate Registration Project does not provide a significant benefit for Kyrgyz society.