

Catastro/Land registry – Spanish properties

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CONSTRUCTION, SPANISH CONVEYANCE

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“Catastro” is the institution which considers properties for maps, drawings, plans, and is the source of the *valor catastral*, the assessed value of property for Tax purposes.

Whilst the *Registro de la Propiedad* and the *escritura* may well confirm the ownership of a property and the conditions of the same, like in which percentage, if there are limitations or charges (like mortgage, public auctions, Tribunal disputes, etc), the Catastro will give you a better understanding of the boundaries, the exact location of the property (usually in a visual form), size and description of the property, usually with maps, location, and drawings.

But, when you complete the building of a house (or an extension like a new room), or other construction like a pool, garage, shed, etc, then you must inform the land registry about this new change on the property, but **ALSO to Catastro**. You must provide plans and drawings to Catastro about these new buildings, or new extended parts of your property. If you do not do so, you can have future problems because the Catastro will never know about the existence of that new constructions.

There is a general misconception from which owners, when they complete the construction of a house, or the extension of an existing construction, or others (like garages, pools, etc), they think that Catastro will automatically register these constructions when passed by a notary. Unfortunately, this is not the case. When you complete any of these works, you have to declare them at the notary, land registry, and the Catastro.

Once the construction is duly inscribed in the Catastro, the job is finished, and soon (sometimes it takes around 1 or 2 years) you will start receiving the bills from the Council Tax.

Catastral records for many properties in Spain are out of date and inaccurate. The Catastral system has been used to formulate the value of properties and therefore to fix the taxable level on each property. For many Spaniards the avoidance of tax is a national past-time and many of them failed to update their Catastral details for fear of paying an increased level of tax.

This **updating of the Catastro was always a voluntary system** so anyone who failed to update their property in the Catastro (and therefore saved on the tax due) was doing nothing wrong. In many cases nowadays, you will find Spanish owners very reluctant to update their property in the Catastro and it is very difficult to persuade them otherwise.

But, now, in 2014, it is OBLIGATORY. So, now, it has been established a period of 2 years to **REGULARIZE** and **UPDATE CATASTRO**. Catastro has noted that there is a high number of properties that are not updated in the Catastro database. Usually, these properties have under-declared size of building, or parts of the property (like pool, garages, or other parts of the house), not declared in Catastro, and, consequently, **PAYING LESS COUNCIL TAX THAT THEY SHOULD**. Thus, there is now a process of regularization and update of properties in Catastro which ends on 2016. So, it is absolutely necessary that you ask for legal advice to check if you have to **UPDATE YOUR CATASTRO RECORDS**.

[Click here to know more about the process of updating properties in Catastro.](#)

If your property was not updated in Catastro, you should be paying **LESS COUNCIL TAX THAN YOU SHOULD**. So, once you have presented the necessary documents to Catastro, and the regularization process is completed, Catastro may send you retrospective bills for the amount of Council Tax not paid for the undeclared constructions up to 4 years back.

[Click here for more information about Council Tax for undeclared constructions..](#)

So, as well to consult the land registry records of the property, it is always highly recommendable to consult the catastro to check how the property is inscribed and recorded.

Catastro, Registro de la Propiedad (land registry) and the escritura (title deeds):

The **Catastro** is a secondary system set up within Spain to deal with the ownership, description and boundaries of all property in the country. mainly in the Catastro the information recorded about the property

where is located in the maps, which is the size of the construction, which are the boundaries and the coordinates, etc.

The other system which many people have heard of is the **Registro de la Propiedad** which is an extremely important office for the property purchaser and where concentrates on the legal ownership of a property and whether there are any charges and liens on the property. For a small fee the Registro = Land Registry will give you a Nota Simple and you will find the following information:

- Who is the owner of the property: How many people, in which percentage, and the way in which the property is owned.
- A description of the property: Area, region, and zone.
- Where is the property placed.
- What is the “history” of the property: How the land was created, when, who were the previous owners, historically, etc.
- Which elements are considered in the property: How many rooms, toilette, size of the buildings, etc.
- Limitations, Liens and charges: If the property is public auction, or embargo, or seizure, or expropriated, or with a mortgage, or debt, or a right of access by a neighbour, etc.

So the main difference between the English Land Registry system is pretty obvious immediately – there are two separate registries in Spain (which are not linked to any helpful level) so the information on one hand may be correct but the other isn't.

So, what are the main differences between the two systems? Well, the main one has already been answered because the *Registro de la Propiedad* confirms the legal ownership of a property as well as (with the production of a Nota Simple) confirming the charges etc.

Many buyers in the past have considered the *escritura* (title deeds) as the most important document to check before buying a property (and this is certainly one of the documents to see before committing to a purchase), but it is highly recommendable to check both, the Spanish Catastro and the Spanish Land Registry, to check that the information contained in one is the same as contained in the other. In fact, the Spanish system is doing big efforts to connect both registries, and it is already done in urban areas like cities or big urbanizations.

The problem usually comes from rustic and country areas in which is very difficult to “coordinate” the information recorded in both cases.

But, what is the valid description of my Property?, the one from Catastro?, the one registered in the land registry?, the real one?

As explained above, when you make a change on a property (considering “property” as land, construction, etc.), you have to inform the land registry office, as well as Catastro. It means that YOU have to do it. There is not an “automatic “ system from the land registry to detect modifications from all the properties in a specific area. So, the Spanish administration leaves particulars to make this task, passing to citizens the obligation to be updating records from land registry and to Catastro.

Purely, the registration of **a change on a property to the land registry is “VOLUNTARY”**. It means that there is not any kind of obligation to you to update the land registry any time you modify your property. But, sure you will be requested to do this if you wanted to make any kind of legal transaction with the property, as a sale, or a mortgage.

In instance, **having Catastro updated is an OBLIGATION**, due to the fact that the Council Tax is calculated on the size of the constructions. So, if there is a modification of the size of a property, it must be reported to Catastro, in order to modify and adapt accordingly Council Tax bill.

Taking into account that the registration of a modification in the land registry is “voluntary”, and the update of the Catastro is “obligatory”, **it is quite common finding big discrepancies on the description of properties in the market.**

For example, we may find properties where the house was extended time ago, and, being notified Catastro, land registry update was avoided. So, here there will be two different identifications of a property: the one from the land registry showing the house as before the extension, and the one of the Catastro office already updated.

DISCREPANCIES ON CONSTRUCTIONS ARE EASY TO UPDATE IN LAND REGISTRY AND IN CATASTRO

As explained above, when an eventual modification made in a property is due for a **CONSTRUCTION** element: construction of a house, or a new part of the house, or a garage, pool, etc, then, updating Catastro and land registry is more or less easy. There are rapid ways to proceed with the update the records in both cases. The same if there is a discrepancy of the construction description between Catastro and Land Registry.

But, we cannot say the same when the discrepancy is created **ON LAND**. It is quite common find plots with different records and descriptions in the land registry, in the Catastro, and even in real, overall in quite old plots, or in rustic land properties. As lawyers, we often find with these kinds of problems with our clients.

For example, is quite usual to find, in rustic land, a plot with 5.000 m² in real, being registered in the land registry with 8.000 m², and in Catastro with 7.000 m². When clients are informed about this issue, the first question they ask is “what is the correct size of my land?”; what is the correct description?, the one from Catastro?, the one from the land registry?, or the real?. And, after long time of practice, our question is always the same: it depends on each particular case.

The reason of this discrepancy can be for innumerable causes. Following the above example, some eventual reasons:

- It may happen that one of the previous owners, having a land of 8.000 m², only fenced 5.000 m² in order to save expenses (it is cheaper fence 5.000 m² instead of 8.000 m²). And, although having ownership on 8.000 m², the following owners and buyers had the thought that the land was the one fenced, and not the rest.

And, being 8.000 m² the initial plot, the surrounding road to the property was successively extended from the part of the local administration, and taking some part of the land for it. For example, a total of 1.000 m². This “appropriation” of land was never recorded to the land registry, and now, in the aerial plans from Catastro shows the $8.000 - 1.000 = 7.000$ m².

- It may happen also that one of the previous owner sold a part of the land to someone else, in private, and this agreement was not notarized, neither registered in the land registry... Etc.

The point here is that, as well as we said that solving discrepancies on these records for constructions was relatively easy to solve, it is not the same when these discrepancies affects land, plots, and/or borders. There are more complicate ways to solve these discrepancies where they affect to land, plots, borders, etc.

Thus, unfortunately, we have not a specific solution for problems between Catastro, Land Registry, and the real description, more than an individualized study of each particular case.