

Conclusions of the summary report on the courts' jurisprudence in land registration cases

On 10 February 2015 the President of the Curia set up a jurisprudence-analysing working group for the examination of the courts' jurisprudence in land registration cases. The working group involved Curia judges, theoreticians of law and legal practitioners, including attorneys, civil servants and university professors specializing in this field.

Land registration lawsuits are conducted according to the relevant sector-specific laws in an order clearly determined by the specific principles governing land registration. The analysis of sector-specific court decisions made possible not only to draw specific conclusions but also to formulate and determine uniform principles and interpretation directions, which provide guidance on the interpretation of the basic principles. Therefore the survey focused on the analysis, under uniform aspects (subject-matter of the lawsuit, scope of examination, limits of the examination), of the main areas in which decisions were rendered. Thus, the analysis covered the competences and procedures of the land registry authority, the public nature and reliability of land registration, the specific procedural aspects of land registration-related administrative lawsuits, pre-emption right, condominiums, and issues having arisen in connection with the application of the Land Transactions Act.

The following statements and recommendations were made by the working group:

1. Having identified two conflicting *court decisions on principles* (EBH2016. K.2. and EBH2015. K.35) the working group proposed to adopt a uniformity decision. The arising issue in the context of the land registry authority's obligation to clarify the facts was whether the land registry authority was or was not entitled to examine the adequacy of the certificates required under the above Act, more specifically, to examine whether the real estate handover and takeover documentation was identical with the list of real estates authenticated by the National Institute for Quality- and Organisational Development in Healthcare and Medicines (GYEMSZI). Any fact-finding is limited to the establishment of the existence and availability of the documents based on which the registration of the right specified in the request is being sought and to the examination of the compliance of those documents with the statutory requirements, that is, to the establishment of their adequacy for the purpose of registering the given right in the registry. The authority may not determine any civil law-related issues, as they fall in court competence.
2. The working group proposed to publish Curia judgment No. Kfv.37.035/2013/11 as a *court decision on principles* in order to confirm the above elaborated principle (namely, that the authority has only registrative powers and may not examine civil law-related issues).
3. The prohibition on examining the proceedings of other authorities or organisations flows from the registrative nature of the land registry authority and its proceedings. Only such rights can be registered in the land registry that are specified in the requesting authority's request [Kúria Kfv.II.37.091/2012/5].

A court judgment on a registrable right or fact may serve as a basis for registration. The land registry office may not depart from the request contained in the judgment. However, the circumstance that civil court decisions occasionally do not contain the personal identification data that are required under the Land Registration Act gives rise to serious practical problems. The working group called for the adoption of a joint Administrative-Civil Department Opinion to terminate the related conflicting court practices.