

The Protection of Property Rights in Spain as Requisite for Establishing a Mortgage Market Nicolas Nogueroles

Registrador de la Propiedad

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INTRODUCTION Personal loan **→** 6 - 7 % Loan secured by a mortgage **→** 2,5 - 3%

7

INTRODUCTION

- Spain → 40 million inhabitants.
- 1.200.000 mortgages registered in
 2003
- Outstanding mortgage balance:
 467.877 M. de euros ←→56 % del G.D.P.
- · Saves Citizens: 14.036 M. de euros



ESTABLISHMENT

- XIX Century (1.861).
 - Real estate belonging to
 nobility/church/state . Changes into the
 hands of multiple owners
 - Exinting laws did not guarantee
 - a) Who the owner was
 - b) What liens encumbered the property



OBJECTIVES

Make property ownership secure.

Create territorial credit banks.

Free landowners from the yoke of usury.



WHAT SYSTEM WAS CHOSEN?



POINTS - REGISTRY

- Basic purpose: To ensure property ownership.
- Is not a simple set of statistics.
- Direct service of citizens (civil trade).

 REGISTRY? CADASTRE



REGISTRATION SYSTEMS

Registrations of deeds.

(France, Italy, Bélgium and the somes states in the USA).

Title certification system (Germany,

Austria, UK, Denmark)

- Problem: Who to protect?
 - a) The true owner
 - b) The buyer according to de registry



SPANISH SYSTEM

- Spain 1861.
 - Title registration system.
 - There was no cadastre.
 - The development of territorial credit and the protection of property couldn't wait.

LA PROPIEDAD

Y MERCANTIL

DE VALLADOLID

Flexible system.
 The consumer chooses
 the degree of protection



EFFICIENCY

Reduces transaction costs.

 Offers the security the market needs.

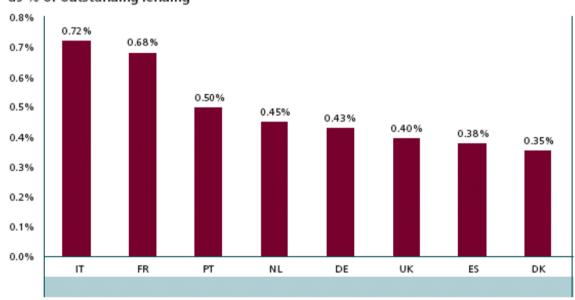
 Oliver Wyman report for the European Mortgage Federation.



EFFICIENCY

Figure 3.21: Estimated average operating costs as a % of outstanding lending

Estimated annual operating costs as % of outstanding lending



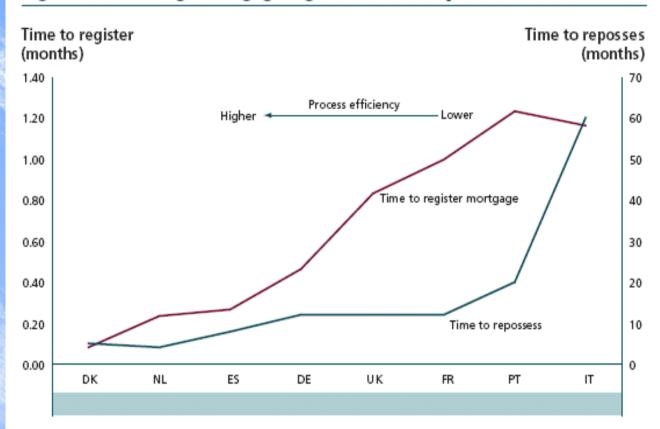
Source: Mercer Oliver Wyman, based on lender questionnaires, interviews and analysis of company accounts

Note: Operating costs estimates include distribution, origination and servicing costs only. Every effort has been made to ensure that cost levels are comparable although differences in business model, data availability and lender interpretation mean that these results should be treated with caution. Caveat: Estimates based on a small number of data points for each country



FORECLOSURE

Figure 3.22: Average mortgage registration and repossession times



Source: European Mortgage Federation



ORGANISATION

- Independent Function.
- Self-financing (Fees No Taxes)
- Liability.



TERRITORIAL CREDIT BANKS

- Banco Hipotecario de España (1.872)
 - Bank created by law-Public and private capital Nationalised in 1962. Privatised in 1999.
- Freedom to grant mortgages (1981).
- In 1946 a bank specialising in agricultural loans was created.



MORTGAGES

- Why would a bank lend at 2.5% instead of 6%.
- 1.- The mortgage is created trough registration.
- 2.- The lender is not affected by unregistered encumbrances.
- 3.- Mortgages don 't keep assets from being transfered. Mortgages can be transfered too.



MORTGAGES

SPEED OF FORECLOSURE

- 1.- Limited causes for objection.
- 2.- Elimination of unnecessary steps.

(The evaluation of the asset is registered)



MORTGAGES IN SPAIN

2002 property registry statistics.

Number of mortgages: 999.557.

Amount: 138,474,839,254€

- Rural property
 - Number of mortgages: 45,094 or 4.5%
 - Amount lent: 6,541,829,111€ or 4.4%

Ministry of Agriculture accords

Mortgage.- The loan could be 70% or 80% of the asset value Another kind of collateral— It has to be worth four times the amount of the loan



COOPERATION

TIPOS HIPOTECARIOS INDICATIVOS EN EUROPA

ESPAÑA

- Interés: 4,8%
- Cuota mes: 811



- Interés: 6.9%
- Cuota mes: 963
- Var. con España: 19%

FRANCIA

- Interés: 5,9%
- Cuota mes: 888
- Var. con España: 9%

ITALIA

- Interés: 5,3% (dic. 2001)
- Cuota mes: 846
- Var. con España: 19%

ZONA EURO

- Interés: 5,7%
- Cuota mes: 874
- Variación con España: 8%

ALEMANIA

- Interés: 6,26%
- Cuota mes: 914
- Var. con España: 13%

FINLANDIA

- Interés: 5,5% (abr. 2001)
- Cuota mes: 866
- Var. con España: 7%

PORTUGAL

- Interés: 5.1%
- Cuota mes: 832
- Var. con España: 3%

NOTA: préstamo de 125.00 a 20 años para los tipos hipotecarios indicativos europeos.

HOLANDA

- Interés: 6%
- Cuota mes: 896
- Var. con España: 10%

AUSTRIA

- Interés: 5,62%
- Cuota mes: 868
- Var. con España: 7%

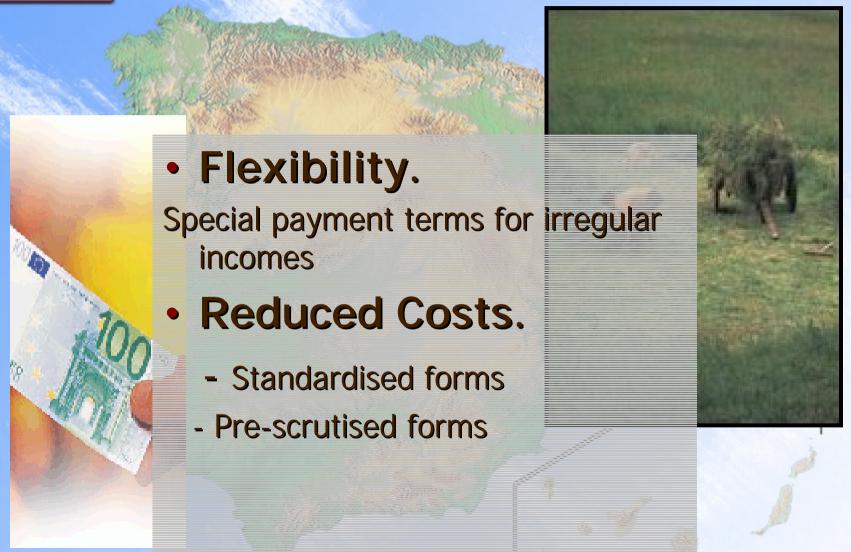
IRLANDA

- Interés: 4,69%
- Cuota mes: 804
- Var. con España: -1%





MORTGAGES IN AGRICULTURAL AFFAIRS





CONTROVERSIAL ISSUES

- One Agency or two?
- Judges must not perform the duties of the registrar.
- The need for mapping beforehand.
- Registry and Cadastre.
- Simplification of procedures



COOPERATION FUNCTION

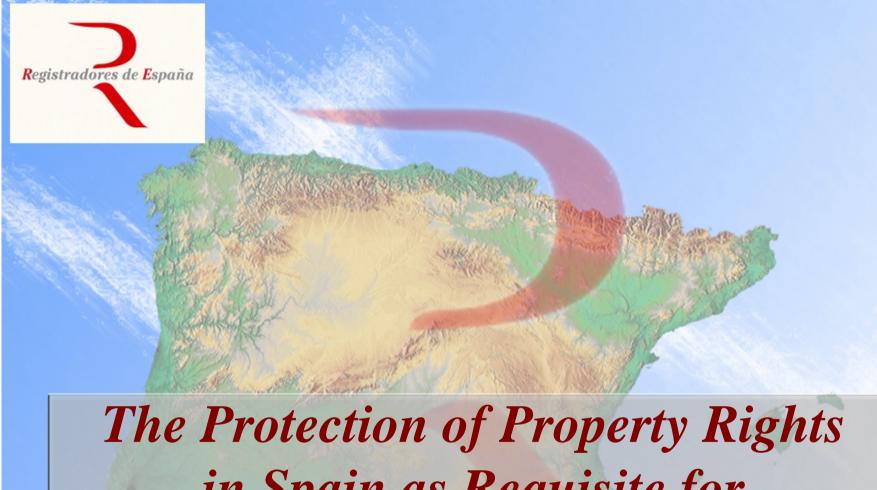
- Land Consolidation.
- Protection of minimum cultivation units.
- Environmental protection



FUTURE DEVELOPMENT IN EUROPE MOVABLE PROPERTY REGISTRIES

CHATTEL MORTGAGES ON MACHINERY

CROP PLEDGES



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