

Registration Problems In Cappadocia/Turkey

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Key words: Cadastre, Land management, Cappadocia, Registration, Problems of registration

SUMMARY

In Cappadocia region the cadastre Works were begun in 1965. The topographic structure of the region, the earth pillars, the curved-stone house, curved-stone storages and dove cotes have caused some problems, in the course of making limitation, surveying and registration. In the region there are some areas which can not be measured technically. In order to solve the problems seen in Urgup and Göreme, The General Directorate of Land Registration and Cadastre has sent a commission to the region. According to the report prepared by the commission, the cadastre Works in the region have been continued.

In this study, in Cappadocia registration problems lasted from 1965 up to today have been examined and, some solution ways have been sought by taking in to account of judgement decisions.

Kapadokya'da Tescil Problemleri

Anahtar Kelimeler: Kadastro, Arazi yönetimi, Kapadokya, Tescil, Tescil Problemleri,

ÖZET

Kapadokya bölgesinde kadastro çalışmaları 1965 yılında başlamıştır. Bölgenin topoğrafik yapısı, peribacaları, kayadan oyma evler, depolar (kiler), güvercinlikler tahdit, tesbit ve tescil aşamalarında çeşitli problemlere yol açmıştır. Bölgede teknik yönden ölçüsü mümkün olmayan yerler bulunmaktadır. Ürgüp ve Göreme'deki karşılaşılan tescil problemlerini çözmek için, Tapu ve Kadastro Genel Müdürlüğü bölgeye heyet göndermiştir. Heyetin hazırladığı raporlara göre bölgedeki kadastro çalışmaları devam ettirilmiştir.

Bu çalışmada; Kapadokya'daki 1965 'ten günümüze kadar gelen tescil problemleri, yargı kararları da dikkate alınarak incelenmiş ve çözüm yolları aranmıştır.

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1. INTRODUCTION

Natural miracle Cappadocia Region is defined as the combination of provinces like Aksaray, Nevşehir, Niğde, Kayseri, Kırşehir (Figure 1). Rocky Cappadocia region is formed from Uçhisar, Göreme, Avanos, Ürgüp, Derinkuyu, Kaymaklı, Ihlara and their environment.

Region, which began to be constituted ; presented unique aesthetics of curly rocks, 'fairy chimneys' that form spaces befit fairies, worship and accommodation places which has built a lot of meters beneath the ground attractively.

Millions of years ago in geologic periods, Mounts Erciyes, Mount Hasan and Mount Güllü, which located in Cappadocia Region and who have active volcanic characteristic and sometimes erupt, were source of inspiration by Prehistoric human to cave wall art.

Lavas began to get out from the volcanoes beneath the neogen lakes because of volcanic eruptions which began during Upper Myosen period. Plateau which formed of substances that got out from main volcanoes, continuously change by the less forceful eruptions. Region has taken its last form by erosion of tuff layer by rivers –Red River (Kızılırmak) is the most important one- and lakes since the Upper Pliosen Period. Formations that are called 'Fairy Chimneys', have been arose by erosion of tuff structures by flood waters that come from valley side and winds.

Cappadocia Region, where settlement has begun since Prehistoric Ages, met Assyria Civilization during Early Bronze Age, Cultures of the Hatti settlement, and then the Hittites, the Phrygian, The Persian Empire, the Roman Era, the Byzantine Era, the Seljuks and the Ottoman Empire left deep traces in Cappadocia.

People in the Cappadocia Region hid in caves of which entrance are too small to see, to protect themselves against depredations, raids and invasions in Cappadocia Region which is one of the center where Christianity was spread out and developed firstly. They have built depots for supplies, water sources, and small factories for wine, temples to live there for a long time compulsorily without going out in these spaces. These formations have continued along centuries. Dovecotes were built at higher parts of fairy chimneys and valleys after 18th century.

Tuff rocks which resulted from volcanic formations, to be easily worked up and become solid after meeting air(Figure 2), According to aim of use issue of possession through centuries and nowadays this region still conserve its current interest with admiration of whole World (URL 1).



Fig 1.a. Cappadocia Region



Fig. 1.b. Cappadocia Region



Fig. 2 A panorama of Cappadocia

Issues of possession must be investigated and whom and how title registrations are done must be researched in Cappadocia region especially in Nevşehir Province and its townships.

In this study, how operation of cadastre and getting title to a piece of land is done and registration problems have been investigated.

2. CADASTRE PROCESS AND REGISTRATION PROBLEMS IN CAPPADOCIA

Cadastre(getting title to a piece of land) process began in this region in 1965. Cadastre operations are done province and town centers in accordance to the 1934 date and in accordance to 1966 date and 766 numbered code. 2613 numbered code according to district basis and in villages Topographical structure of the region; Fairy Chimneys, Houses that have been built in caves by curving them, depots (cellars), dovecotes led up to problems at the stage of restriction and determination.

This region has been investigated as Ürgüp Township and Göreme Town

2.1 Cadastre Process in ÜRGÜP Region

Between 1965 and 1971 studied in accordance to Ürgüp Township in accordance to the 2613 numbered “*Cadastre and Cadastral Survey Code*”, faced to problems when reached to places those are cited above. A committee was requested from General Directorate of Deed Cadastre to solve the problems that are faced during registration process by Directorate of Deed Cadastre of Ürgüp. A committee was sent to investigate these problems, after this request.

Committee prepared the 01/07/1970 date and 2.1.6..33/1808 numbered report after investigation.

In this investigation report;

They make study in Ürgüp Township; Kayakapı, Dereler, Temenni, Yunak, Musaefendi and Esbelli districts and regions in the boundaries of Ortahisar town.

During determination of spaces which have been built by curving rocks like caves, doors and windows have been constructed on exterior surfaces, to be connected by the present roads and still used for accommodation, some houses are above another house, some of them have title, therefore, It is told that “...*parcels one of them is partly or completely above another by curving rocks, have collective parts none collective parts of the parcel at the bottom, registration as special ownership to right of easement and special ownership column to establish right of easement in favor of the parcel at the bottom by adding all of the parcel above, is advisable.*” In the same report it is deliberated “...*If one of the parcels is registered other one is acceded lack of written certification, so it is not considered if it is above or at the bottom size is calculated completely then registered. Collective parts of parcel which is lack of written certification with registered parcel, collective parts are established right of easement in favor of the parcel that is lack of written certification.*” (Figure 3).



Fig. 3 : Inhabiting

Moreover, the plans of dovecotes must be drawn according to Turkish Civil Law, but they are very high so they cannot be measured, because of this, it was accepted to write dovecotes on the last page of register of title deeds.

For depots(cellars) which are constructed by curving rocks and beneath plantations; if the registered owner construct it under his/her real property; integral part, If another person construct under the registered real property and it does not have a title at that time after establishment of it separately and as permanently right on a different title registration page (e.g. block 101 parcel 1/1) a connection must be provided in declaration column with the main real property, if it has got a detached title ,it must use a different parcel number.

General Directorate of Deed Cadastre sent the 08/07/1970 date and 2209/94 numbered decision of Central Title Deed Committee to directors to follow the report of this committee *“Possession scratches of border corners of living quarters in caves, benching according to its surrounding polygon route, if it is impossible to be content with establishing by measuring front border corner points and determining results on a possession scratch and measuring is defined roughly according to 47th item of written cadastre and title deed regulation.’.*

District basis cadastre applications in Ürgüp Township between 1965 and 1971 done in sections. Kayabaşı and Esbelli districts especially that have sample real properties of this decision, conditions of houses, that were constructed in caves by curving them, are shown in possession scratches, it is impossible to measure them, so they were committed in written on sections of map. Only measurable niches were shown at possessive scratches. At measure scratches only the front surface could be measured *“On section of maps parcels which were drawn with 01 are cadastral survey and the parcels which were drawn with 04 are committed by real size.”* noted at a convenient place of map, because measuring technique inadequate. During area calculations, only the spaces, which could be seen on the earth, could be calculated on the section of the map. Type of real property defined evidently as *“stone building, house, court, curved in two rocks etc.”* on the records. (Figure 4, 5)

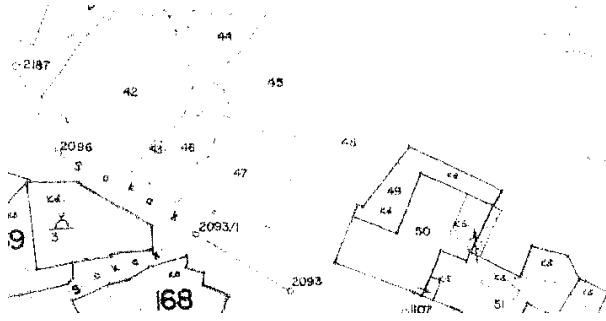


Fig. 4 : Sample Section of Map

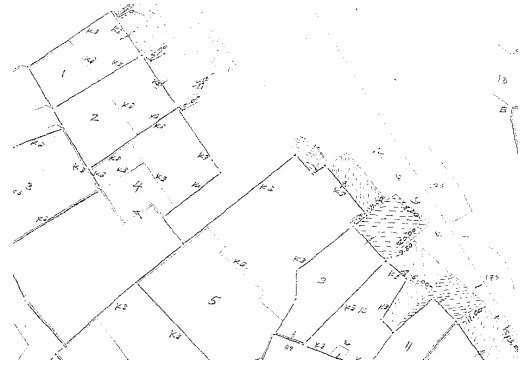


Fig. 5 : Sample of Scratch

Cadastre was completed in Ürgüp in this way.

However, investigation that was done by sampling method it was observed upper and bottom rights of real property are shown on possession scratch, but not written on section of map and record.

2.2. Cadastre Process in GÖREME Region

Registration applications were started in 1974 in accordance to 1966 date and 766 numbered code in Göreme town and finished in 1976. During this application variety of problems were faced here again as in Ürgüp. Because of different applications, a committee was requested about the method of registration in Uçhisar, Avcılar(Göreme), Kaymaklı and Ortahisar towns by the directorate of land registration of Aksaray. Whereon the committee came and formed titles as house, ground plat, fairy chimneys, castles, dovecotes, depots, churches and spaces that cannot be measured and the report on 12/12/1974 declared to the General Directorate of Deed Cadastre.

Committee determined in their report;

Houses and Ground Plats : According to their projection real properties, one of them is completely above another one; first which one is registered must be determined, if both of them have titles the former one considered and the other one is written on a register of title deeds separately and permanently, if one of them has title the other one is written on a register of title deeds separately and permanently, if neither of them has title, in such a case first the former one is established in terms of date by the help of expert opinion, tax records and the other documents then the former one must be registered and the other one is written on a register of title deeds separately and permanently as upper and bottom right (Figure 6,7).



Fig. 6: A room curved from rock



Fig. 7: A settlement curved from rock

According to projection if one of them is partly above another one therefore it is fixed and established as *right of easement*, if more than a half is above the other one at that time we must apply the rules that are cited above in accordance to their registration condition.

Real properties beneath the public road and over public road with arc are not issue to registration but in such a case when registration is compulsorily on behalf of municipality, provincial administration or treasury established then if there are some real possessions like house, depot or straw house it is advisable to write on a register of title deeds separately and permanently as upper and bottom right.

Fairy Chimneys: It was denoted that according to the 1710 numbered Ancient Monuments Code that was in force in 1974. There must be representatives from the Ministry of Tourism and Culture and Directorate of Museums and Ancient Monuments while restricting and fixating

- If the real property on which there is a fairy chimney has a title, it is established according to its purpose, fairy chimney is written in declaration column and then authorized people are informed.
- If the real property does not have a title in such cases according to 10th and 12th items of 1710 numbered code it is established in behalf of treasury, if real property on it is built before 06/05/1973 write on a register of title deeds separately and permanently at last parties must be informed.
- Restriction and fixation of spaces, under decision and administration of the state, are done in behalf of treasury
- If there are more than one real property in a fairy chimney, in such cases, rules in the first item must be applied.
- If there are not only a real property that has a title but also a real property which is lack of written certification. Necessary restriction and fixation is done for the real property that has a title, for the other one is written on a register of title deeds separately and permanently if there is a right that is obtained according to the 766 numbered code (Figure 8).



Fig. 8: Fairy Chimneys

Castles : For the spaces which are called castles acted similarly as in the fairy chimneys, 1710 numbered and 766 numbered codes must be applied and announce to the related people.

Dovecotes : Rising with perpendicular slope at valley side formed of tuff rocks which have similar features, little rooms which are curved on hillside and connected to outside through the windows like a cage.(Figure 9) and fertilizer of birds is very useful because of this restriction and fixation of dovecotes, which is transferred from father to son or pass into another person's hand by purchasing, measuring by fixing leveling rods on broken points on valley and back cross section and putting a letter that shows its condition on a vertical scratch then attached to the section of map is requested.



Fig. 9. Dovecotes, Built on Rocks.

- Restriction and fixation are done on behalf of the owner of title according to the letters on the vertical scratches for dovecotes which have titles and by measuring parcels which are between upper and bottom borders of environment and established on behalf of treasury are connected then upper right is regulated after opening anew page in deed registry. Dovecote in the feature column and in the amount columnm² space that was curved in rock must be written; inner size is not measured only settle for experts and owner's determining is requested.
- Rightful owners who made an effort to curve or the people who took it by purchasing who prove this with documents again these spaces are written on a register of title deeds separately and permanently, providing connection with the main parcel, if it is an ancient monument representative of the General Directorate of Ancient Monuments, unless the representative of Ministry of Finance must be informed.
- If it is in separate rock blocks, delivered opinion about ground and cross section of them are measured the parcel, which arises, fixing and establishing on behalf of treasury, then letter is written and is connected to main parcel at last establishing separate upper right, act for dovecotes on fairy chimneys and in castles similarly as cited at related parts above,

Depots : Adopting spaces, which are under decision and administration of the state, but have not been reserved for public benefit ,assigned to municipalities, and sold to private people by municipalities, then have been transformed to depots by making effort and spending money, as ground and registering on behalf of their owners after giving parcel no according to measuring, upper parts of them must be registered as separately and permanently right on behalf of municipality, contrarily ground must be restricted on behalf of municipality and the depot must be registered on register of title deeds on behalf of right holder as separate and permanent right. The plantations, which have titles and depots have been built under them by its owner or by another person and depots which have been built under real properties which do not have titles, must be transacted according to the 01/07/1970 date and 2.1.6.33/1808 no report which is cited in the sample of Ürgüp.

Rock Cliffs: Rock Cliffs in this region are not from the rock cliffs which can not be property of somebody and can not be the issue of private property like spaces which are not convenient for farming; public properties e.g. water, rocks, hills, mountains until proved contrarily according to the 641st item of Turkish Civil Law, because they are facts of nature and soft tuff rocks and they are from rock cliffs which can be facilities like houses, depots can be built on them easily, so they must be restricted, fixed and registered on behalf of national treasure after measured and '*easily operated soft tuff rock*' must be written in the feature column of register of title deeds, was noted.

Underground City: In the underground city, that contains 26000 rooms and nine floors, rooms are connected to each other through galleries and have ventilation shafts in Kaymaklı town;

- This underground city which is in the content of no1710 law; the parcel, which is formed after fixation of ground borders of it and measuring as possible, is requested to be

restricted, fixed and registered on behalf of the national treasury '*ancient monument-historical underground city*' in the feature column of register of titles and deeds and '*ancient monument can not be the issue of trade*' in the declaration column of register of titles and deeds must be written.

- Houses, plantations and stress at the upper part which have titles they must be fixed on behalf of title holders separately and permanently after they are measured and given a letter, then '*It is on the ancient monument*' an annotation is requested to put on those parcels
- Real properties, which do not have titles, letters are put and measured then they must be attached to main real property and registered on behalf of right holder according to the no 1710 law and no 766, is noted.

Churches: According to no 1710 law must be measured as a single parcel and they must be restricted, fixed and registered on behalf of national treasury. If there is an owner at that time according to circumstances in the 33rd item of the no 766 law it must be written on behalf of the national treasury but establish a separate right holder on a different page and announced if necessary is remarked.

Spaces which can not be measured technically: If they have titles or houses and estates which have been owned without titles can not be measured;

If there is no possibility of prismatic measuring, tachometric procedure must be used, if estate can be measured but house cannot be measured, estate must be measured and its feature must be written as '*house*'. If the house enclosed whole estate and can be measured, it must be showed on vertical scratch and information about them and their annexes are must be written in the declaration column. If there is not a possibility of measuring and scratching must be written by emphasizing their neighbors is denoted and the report is finished.

General Directorate of Land Registry held meetings with related organization and sent the 11/08/1975 date and no 115 decision of the Central Title Commission to related directorate. However the commission was confirmed the decision, '*houses, stalls, straw houses, cellars and dovecotes which have been built on Fairy chimneys and churches which do not have titles and its a property of someone must be fixed on behalf of the National Treasury and invasion must be noted in declaration column of register of title deeds*' and '*the local representative of the Ministry of Culture must be informed to cooperate*' are requested. Aksaray directorate of registry directed their operation based on the 115th decision. Spaces which have been curved in rocks in Göreme Town are shown on measurement scratches. Kaymaklı underground City was also restricted, fixed and registered based on this decision. These types of places are shown by scanning on measurement scratches. Arched places are formed parcels and shown as permanent and separate right, however they do not touch the ground. (Figure10, 11).

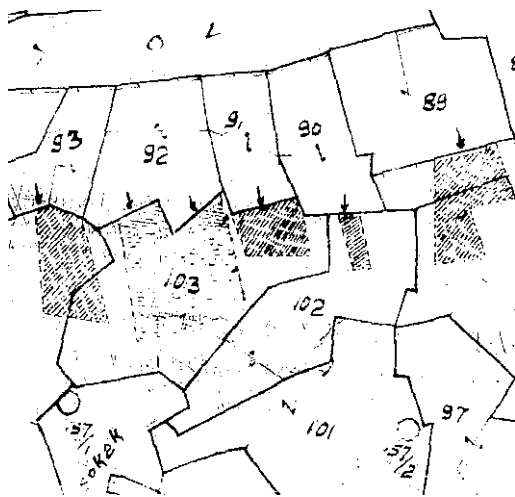


Fig.10: A Sample Section of a Map

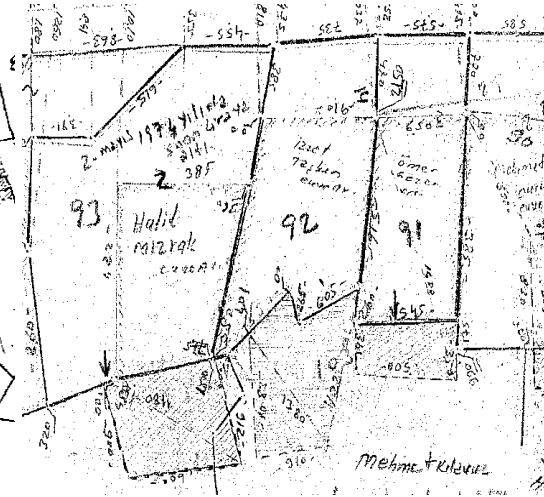


Fig. 11: A Sample Scratch

Aksaray Directorate of Land Registry finished operation of this region in this way.

In practice, during the investigation of Fairy chimneys and houses which have been curved in rocks in three sections of a map by sampling, it was observed that upper and bottom rights were not cited on the record of the study of houses which have been curved from rock and fairy chimneys. Main real property of Fairy chimneys were written on behalf of the National Treasury, invasions on them were cited in related columns of the record.

3. CIVIL JURISDICTION FOR REGISTRATION PROBLEMS IN CAPPADOCIA

1985/175-534 date and numbered file of Second Civil Court of First Instance in Nevşehir, refused to remove annotation from the declaration column of register of title deeds, where “three rooms, a depot belongs to.....” is written, in the legal accuse to remove the annotation from a real property of the National Treasury. Then File was appealed to the Supreme Court. 10th Judicial Office of the Supreme Court said in its 03/03/1986 date and no 1986/2311-2263 final court decision “.... According to no 2683, law about Protecting Cultural and Natural Heritage and regulations for antique monuments was in force formerly, these types of cultural and natural heritages in the nature of common property because of this they cannot be issue for private property. “According to the 40th item of titling code; an annotation can not be put in declaration column about spaces, which have done on real properties which can not be issue for private property,” said and reversed the decision of the local court.

Local Court rectified its decision according to this decision. Henceforth, Revenue office of Nevşehir has been bring suit similar real properties as a representative Finance Treasury, then it began to remove annotations of invasions about real properties.

Beside this in 23/11/1988 date and no 1988-825, no 1988/964 and 18/10/1989 date and no:1989/1-419 and no; 1989/528 final court decision cultural and natural heritages of spaces like fair chimneys decided that 10 years of lapse would not be valid. In the 13/09/1983 date

and no10125 final court decision of 7th Judicial Office of the Supreme Court said that there are properties which content fairy chimneys compulsorily register on behalf of the National Treasury therefore real properties which contents fairy chimneys were brought suit and provided their secretion at last registered on behalf of th National treasury..

4. CONCLUSION

The sources and results above were reached during investigation in Cappadocia Region especially in Göreme Town and Ürgüp Township .In Göreme 1966 date and no 766 titling code and in Ürgüp 1934 date and no 2613 Cadastre and Cadastral Survey code were used. In both of the survey commissions from General Directorate of Land Registry have investigated, have prepared reports and 94th and 115th commission decisions of Central Title Commission were taken then all operations were performed according to these decisions.

Title deed officers acted self-sacrificing according to technical conditions of that time and tried to do the best according to available bad condition. However, spaces, which have been curved into rocks and registered, could not be measured. Only shown on scratches and process was only to fix the owner. Title registrations, which are still, continue to exist at present must be measured by the help of the latest technology and rooms, houses, depots etc., which have been built into rocks by curving, must be provided to be registered.

Henceforth Title and Cadastre organization will fulfill its responsibility to protect our cultural heritage

We think that it is acceptable to get over registration problems, which were faced in the Cappadocia Region by second cadastre or 3D cadastre

- if spaces which have been curved into rock are not ancient monument must be fixed and registered on behalf of its owners, limits of spaces which were curved must be fixed shown in the plan to protect invasions.
- Fairy Chimneys are never issue for ownership and use, it will be advisable to protect after written on behalf of the National Treasury.
- Dovecotes in rock Cliffs must be fixed as rock cliff on behalf of the National treasury, but entrances of dovecotes must be shown on scratches by their coordinates.
- Air photos are evaluated better and you can receive easily by the help of GPS so they must be used.
- Vertical dimension, the third dimension must be used at dovecotes which were issue of property and registration must be done by the help of them.

Registration problems in Cappadocia need a second Cadastre and 3D Cadastre because of these legal regulations must be done.

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