



ЗЕМЛЕУСТРОЙСТВО И КАДАСТРЫ

DOI: 10.22363/2312-797X-2018-13-2-121-130

ANALYSIS OF ERRORS IDENTIFIED IN THE IMPLEMENTATION AND MANAGEMENT OF THE REAL ESTATE CADASTRE

V.A. Sinenko¹, A.N. Volnova²,
M.V. Pichuzhkina², T.I. Shiyapov¹

¹Peoples' Friendship University of Russia (RUDN University)
Miklukho-Maklaya str., 6, Moscow, Russia, 117198

²Branch office of FGBU "FKP Rosreestra" for Moscow region
*Agrokhimikov street, d. 6a, r.p. Novoivanovskoye,
Odintsovo district, Moscow region, Russia, 143026*

Abstract. One of the most common reasons for the suspension of the procedure for state cadastral registration, or state registration of rights to real estate are errors that are contained in the information of the real estate cadastre. The presence of errors in the Unified state register of real estate, including mistakes in title documents for real estate, is the basis for the suspension and refusal in the state cadastral registration and further registration of rights to real estate. In such circumstances, the applicant is compelled to prove violation of his rights. If there is an error in the information of the real estate cadastre regarding the real estate object, such errors are automatically exported to various databases and as a consequence lead to a large number of errors in the information of the real estate cadastre as well as various registers and cadastres. With the enactment of the Federal Law of 13.07.2015 No. 218 "On State registration of real estate" the procedure for correcting mistakes in the Unified state register of real estate has been substantially simplified. In their article, the authors analyze the current situation of the real estate cadastre databases and give examples of the most common in practice technical errors in the management and implementation of the real estate cadastre.

Key words: cadastre, the real estate, land, the real estate cadastre, property registry, registry error, cadastral error

Since January 1, 2017, the Federal Law of Russian Federation №218 of 13 July 2015 entered into force "O gosudarstvennoy registratsii nedvizhimosti" (Law № 218). This law replaced the Federal Law of Russian Federation № 122 of 21 July 1997 "O gosudarstvennoy registratsii nedvizhimosti" (Law № 122) and Federal Law of Russian Federation № 221 of 24 July 2007 "O gosudarstvennom kadastre nedvizhimosti" (Law № 221). These laws in due time should simplify procedure of registration of the rights to the real estate as the uniform object including in itself not only structures, but also the ground.

Taking into account the norms of Law № 218 and the current legislation, in accordance with systemic changes, regulation of relations in the registration and registration

area of real estate. Also, a one-time procedure for conducting state cadastral registration and registration of rights to real estate. Previously existing laws did not provide for simultaneous cadastral registration and registration of real estate.

Despite the positive results of the transition to the maintenance of the registration and registration system and the introduction of the real property cadastre in Unified state register of real estate, the most common reason for the suspension of the state cadastral registration procedure or state registration of rights is the errors contained in the Unified state register of real estate.

Errors in the Unified state register of real estate are classified for the following reasons:

- errors caused by the conversion (transfer) of data during the change of accounting information systems;
- errors due to inaccurate (incorrect) data entry in the process of the staff's regular use of the information system by users;
- errors due to the modernization of accounting information systems due to changes in legislative and regulatory acts;
- mistakes with methodology arise in case of ambiguous interpretation of the provisions of regulatory legal acts.

In accordance with the provisions of Art. 61 of Law № 218 all the errors in the information of the Unified state register of real estate are divided into two types: registry and technical.

Earlier in accordance with Article 28 of Law № 221, errors in the real estate cadastre were divided into technical and reproduced (cadastral).

Currently, according to paragraph 1 of Art. 61 of Law № 218, a technical error (misspelling, misprint, grammatical or arithmetical error or a similar error) committed by the registration authority for the state cadastral registration and (or) state registration of rights and resulting in inconsistency of information contained in the Unified state register of real estate, information contained in the documents on the basis of which information was entered in the Unified state real estate register (hereinafter — technical error in the records) [1, 3]. Such error is corrected by the decision of the state registrar of rights within three working days from the date of detection of a technical error in the records or receipt from any interested person of an application for correction of a technical error in records or on the basis of an effective court decision on correction of a technical error in records.

According to the Law № 218 a mistake in the Unified state register of real estate, which is contained in the land survey plan, technical plan, territorial map or survey act, is a register error, which was caused by an error made by the person who completed the cadastral work or the error contained in documents sent or submitted to the registration authority of rights by other persons and (or) bodies in the order of information interaction, as well as in a different order (hereinafter — registry error) [1, 3]. Such error is subject to correction by the decision of the state registrar of rights within five working days from the date of receipt of documents, including in the order of information interaction, indicating that there are registry errors and containing the information necessary for their correction, or on the basis of a final court decision on correcting a registry error.

In this regard, register errors are allowed by specialists during cadastral activities, during the preparation of title documents, as well as when digitizing archival documents. When entering information into the Unified state register of real estate, the registrar shall follow the provided documents and, in accordance with them, enter information on real estate objects, including capital construction objects. So if there are errors in the documents provided in the Unified state register of real estate, erroneous data and information is entered, thus a registry error appears.

Registry errors in the Unified state register of rights can also be transferred from information that is contained in other databases (pre-existing registries and cadastres) if there are cadastral errors in them, that is, without filing documents.

To meet the needs of physical and legal entities in the information, to provide and provide information resources to state authorities and local self-government bodies, organizations, institutions, public associations, for effective management and the functioning of economic systems, it is necessary to constantly update and systematize activities for obtaining, maintaining, processing, transforming, accumulating and providing information to the real estate cadastre. Such information should be possessed by the central apparatus and territorial bodies of the Federal service for state registration, cadastre and cartography (Rosreestr), as well as other organizational structures (departments, organizations, centers, institutes, libraries, divisions) that specialize in types of information to be accumulated and disseminated its themes, collection technologies and the served region.

In this article there are often encountered variants of the occurrence of registry errors. For example, such as [4]:

- created by a cadastre engineer and contained in a technical plan or an inspection report (such mistakes include the definition of the coordinates of capital construction sites on a land plot);

- documents submitted to the cadastral registration body from state authorities and local self-government bodies for entering information into the Unified state register of real estate;

- as a result of the implementation of the inventory by the technical inventory body with violation of the legislation in effect at the time of the inventory.

In practice, there are also cases when the technical inventory body mistakes in calculating areas, determining or indicating the number of storeys of an object, etc.

- the wrong area of capital construction projects;
- an incorrect plan for capital construction projects or parts of it;
- wrong coordinates of the building;
- wrong indication of the purpose of the building or building.

Unlike the registry, technical errors are much more common. Technical mistakes include:

- clerical error;
- a typo;
- grammatical or arithmetical error;
- or to that a similar error.

Also in the article are frequently encountered errors in the semantic part of the automated information system “The Real estate cadastre”. With regard to the main characteristics of the property identified the following errors in the characteristics:

1. Cadastral number — a unique characteristic of a real estate object is mandatory for entering into the real estate cadastre.

2. Date of entering information about the property in accordance with Law № 221 in the real estate cadastre, in accordance with Law № 218 in the Unified state real estate register (from 01.01.2017).

The state property cadastre may contain the following types of errors:

- the previously recorded status does not correspond to the status “previously registered”;
- the value does not correspond to the “accounted” status;
- the value does not correspond to the status “temporary”;
- the value is zero or absent.

3. The name of the land plot connected with the object of capital construction:

- land use;
- common land use;
- separate / conditional plot — multi-contour plot.

4. Area.

The following errors are possible in the specified characteristic:

- the area is missing;
- value of area “0”, or negative;
- other errors.

5. Address (location).

This characteristic contains information about the address of real estate objects or, in the absence of such addresses, a description of the location of real estate objects (name of the subject of the Russian Federation, municipal formation, settlement and the like).

In the real estate cadastre, the following errors are possible in the entry “address (location)”:

- lack of information (empty, dashed, etc.);
- incomplete information (the address is indicated to the level of the subject of the Russian Federation, the municipal entity of the subject of the Russian Federation), while there is no description of the location of the facility) and other contradictions.

6. Type of real estate object (building, construction, premise, object of unfinished construction).

7. Type of living quarters (room, apartment) if the real estate object is a dwelling located in an apartment building. In the real estate cadastre may contain erroneous information about the types of living quarters, for example, rooms in the hostel assigned the form of “apartment”.

8. Appointment of a building, structure, determined by the order of cadastral registration, in the presence of such designation.

9. Cadastral value. This characteristic refers to additional information entered in the real estate cadastre about the real estate object against which the following errors can be detected:

- the value is missing;
- value “0” or negative.

10. The main characteristic of the property (length, depth, depth, area, volume, height, building area) determined by the procedure for maintaining the real estate cadastre and its significance if the real estate object is a construction or an object of unfinished construction.

11. The number of floors including underground floors if the property is a building or structure (if there is a number of storeys in front of a building or structure).

12. The year of commissioning a building or structure upon completion of its construction or the year of completion of its construction if the real estate object is a building or structure.

13. Material of external walls if the property is a building.

The information specified in paragraphs 10—13 may not correspond to the information specified in the documents received from the organizations of technical inventories:

- lack of information (empty, dashed, etc.);
- the value of the characteristic is indicated incorrectly.

At the same time a technical error can be made with regard to any information contained in the Unified state register of real estate of the state registration number under the provisions of Law No. 218. So among the most common are the following:

- error in the area of capital construction objects;
- mistake in the number of storeys of the building;
- error in the address of capital construction objects;
- an error in identifying the surname of the name and patronymic of the legal owner;
- an error in the construction completion date;
- mistake in the number or date of registration of the right;
- errors in the title of title documents.

In addition, there are errors such as duplicate entries, i.e. entering in the Unified state register of rights information about the objects of capital construction, information about which is already contained in the Unified state register of rights. This type of error should be attributed to technical errors. Also, technical errors include double counting of an object in the form of a building and a premise.

When studying the work of the cadastral registration body to identify and correct the errors that occurred, the following measures were analyzed to bring the information of the real estate cadastre in accordance with the documents-grounds or in accordance with the requirements of the current legislation:

- work on the harmonization of information databases of the Unified state register of rights to real estate, real estate cadastre and the Federal tax service of the Russian Federation;
- constant interaction with the body of technical inventory within the orders of the Ministry of economic development of Russia, as well as guarantee obligations under state contracts;

— prompt response to citizens' complaints about the presence of errors in the information. Correction of errors in the preparation of information for the provision or implementation of state cadastral registration. Reception and processing of applications for the correction of technical errors.

According to the provisions of Law № 218, the following remedies are provided:

- on the basis of a decision of the cadastral registration body in case such an error is detected by this body;
- on the basis of the statement submitted to the cadastral registration body about such an error;
- on the basis of an effective court decision on the correction of such an error.

In order to find out exactly where the erroneous data is contained — in the Unified state register of rights, in the extract from the Unified state register of rights, in the registration stamp (in the date and / or registration number) or in the certificate it is necessary to carry out a series of the following consecutive actions.

1. To apply to the reception of the real estate registration department, which issues an extract from the Unified state register of rights, with an oral request to correct erroneous information in the extract from the Unified state register of rights and provide title documents.

If there is a typo in the extract from the Unified state register of rights, the registration authority corrects such an error and issues an extract from the Unified state register of rights without erroneous data.

For example, in Moscow, misprints in the extract from the Unified state register of rights in the registration authority are corrected on the day of the application by issuing a new extract from the Unified state register of rights.

It is also possible that the registrar who signed the extract from the Unified state register of rights, can not correct it and motivates it by the fact that there are no typos in the extract from the Unified state register of rights, and such data is contained in the database of the Unified state register of rights to real estate objects. This will mean that the registration service has previously made a mistake when conducting state registration and now the “erroneous data” is contained either in the Unified state register of rights or on the hard copy of the title deed or in the registration stamp.

2. To apply to the reception of the registration department of rights at the location of the real estate with an application for correction of a technical error with the attachment of the original title deed (one copy can be filed, the state duty should not be paid).

The main reasons for checking the extract from the Unified state register of rights, correcting typos in the extracts of the Unified state register of rights, eliminating technical errors in the Unified state register of rights, stamps of registration inscriptions on documents, in certificates of registration of the law are:

1. To exclude the risks of obtaining inaccurate information in the future. For example, a seller of real estate may not receive funds from a banking cell if the condition for their receipt is to provide an extract from the Unified state register of rights. In this case when checking the statement by the bank's employees an error will be detected.

2. To avoid suspension of registration in connection with the indication in the contract of erroneous data. For example, in the date and number of registration of the contract or in the documents on the rights.

When registering rights and transactions with real estate, the task of the state registrar is to examine the documents submitted for registration.

During this check, the registrar assesses the completeness of the documents, verifies the powers of the parties, checks the compliance of the content of documents with the requirements of legislation (contract, technical accounting documents, land registry documents, acts, applications, etc.).

In addition, the registrar has the right to request the parties to the transaction and/or state bodies to provide additional documents that are necessary for making a decision on state registration or refusal to state the transaction, the right, or the contract.

After passing the expertise in the Unified state register of rights, information on the transaction (right) is entered and the form of the certificate of state registration is filled in.

If you look at the queue that exist in most departments of Rosreestr, you can conclude that the amount of work for registrars is large. This leads to mistakes, which are divided into technical mistakes that are allowed by Rosreestr employees and mistakes that are allowed by the parties to the transaction, but which are not detected by the registrar during the examination.

When you receive a certificate of state registration in your hands, it is recommended that you immediately check all the data that are indicated in the certificate:

- name and date of title documents;
- name and requisites of the legal owner — legal entity;
- surname and first name, as well as passport data and address of registration at the place of residence of the legal owner — an individual;
- information about the object of law, encumbrances.

Errors can be made in any information specified in the certificate.

In most cases errors committed by the parties are identified during the examination, so the bulk — this is a technical error that is committed by the registering authority when entering information into the register.

These errors should be corrected immediately. For this it is necessary to file an application with Rosreestr to correct a technical error and return the received certificate. It is also desirable to provide the original and a copy of the document containing the correct information and confirming that the mistake was made precisely because of the fault of the registration authority. The fee for the correction of this technical error is not paid.

A new certificate and all returnable documents can be obtained in a few days. In the new certificate, the requisites of the certificate will be indicated, in return for which it was issued. The previous certificate in accordance with the provisions of Law № 122 is also issued in hands with a note on repayment [2].

However, there are situations when Rosreestr employees did not notice the error in the documents submitted for registration and, accordingly, entered erroneous information into the state register. In this case, the fault lies with the right holder (acquirer). Errors occur in such documents as:

- in notarized powers of attorney;
- the text of the contract;
- technical accounting documents;
- other documents that the applicant submits for registration.

This can also be technical errors or typos, that is, which do not affect the terms of the transaction.

The correction of the error committed through the fault of the applicant is possible only by submitting applications for amendments to the Unified state register of rights and reissue of the certificate of state registration.

At the same time it is necessary to pay a state fee: to an individual 400 rubles, to a legal entity — 1200 rubles. The term for making changes to the Unified state register of rights and the receipt of a new certificate is the same as the term for registration of the transaction itself, that is, from 14 to 30 days, depending on the type of real estate object. For example, the period for obtaining a new certificate for an apartment or garage will be 14 days, and for a non-residential premises or a land plot — 1 month.

After entering the corrected information in the state register, the applicant is also given a new certificate of state registration of the law and an old certificate with an error on which the stamp “paid off” will be stamped.

A more complicated situation with errors in the text of the treaty itself, which is subject to state registration.

It may be necessary to sign an additional agreement to an already registered contract, which will make appropriate adjustments to the terms of the transaction. Such an agreement is also subject to state registration, as is the main contract. In this case the previously registered right of the purchaser of real estate is not changed.

The presence of an error in the certificate or contract may make further operations with the real estate object more difficult, so it is best to correct them immediately upon detection.

The authors also analyzed the correction of errors in the territory of the Moscow Region.

So it was revealed that annually there is a decrease in the total number of filed applications for the correction of technical errors. Most of the applications come from individuals (83—88%), about 10—15% from legal entities and a small number from other applicants. At the same time there is a tendency to reduce the number of applications for different groups of applicants.

Over the past three years the ratio of the number of applications that are submitted in paper and electronic form has changed. There is a tendency for an increase in the number of applications in electronic form and a reduction in paper copies, respectively.

For example, the main types of technical errors in the Unified state register of rights in the territory of Odintsovo district of the Moscow region are as follows:

- error in the area of capital construction facilities — 71%;
- error in the address of capital construction objects — 15%;
- error in identifying the right holder — 6%;
- error in the number of storeys of the building — 3%;
- error in the construction completion date — 3%;
- error in the number or date of registration of the right — 1%;
- error in the names of title documents — 1%.

Also article 61 of Law No 218 stipulates the time limits for correcting mistakes.

The technical error in the information is corrected by the decision of the state registrar of rights within three working days from the date of detection of a technical

error in the records or receipt from any interested person of an application for correction of a technical error in records or on the basis of an effective court decision on correcting a technical error in records.

Within three working days from the date of correction of a technical error in the records, the rights registration authority notifies the relevant participants in the relations that arise during the state registration of rights, on correction of a technical error in the records. Correction of a technical error in records is carried out in the event that such correction does not entail the termination, occurrence, transfer of the registered right to the real estate object.

Also the order of submission and the form of the application for correction of a technical error in the records, as well as the requirements for the format of an application for correction of a technical error in records in the form of an electronic document, shall be established by the regulatory authority.

© V.A. Sinenko, A.N. Volnova, M.V. Pichuzhkina, T.I. Shiyapov, 2018.

REFERENCES

1. Federal Law of Russian Federation № 218 of 13 July 2015. “*O gosudarstvennoy registratsii nedvizhimosti*”. Available from: <http://www.consultant.ru/>.
2. Federal Law of Russian Federation № 122 of 21 July 1997. “*O gosudarstvennoy registratsii prav na nedvizhimoye imushchestvo i sdelok s nim*”. Available from: <http://www.consultant.ru/>.
3. Federal Law of Russian Federation № 221 of 24 July 2007. “*O gosudarstvennom kadastre nedvizhimosti*”. Available from: <http://www.consultant.ru/>.
4. Kholin M.S., Sinenko V.A. State land oversight implementation on the example of the Istra district of the Moscow region. *Bulletin of Science and Practice*. 2017;9(22):140—149. Available from: <http://www.bulletennauki.com/sinenko-1> [Accessed 15 February 2017].

For citation:

Sinenko V.A., Volnova A.N., Pichuzhkina M.V., Shiyapov T.I. Analysis of errors identified in the implementation and management of the real estate cadastre. *RUDN Journal of Agronomy and Animal Industries*, 2018, 13 (2), 121—130. doi: 10.22363/2312-797X-2018-13-2-121-130.

DOI: 10.22363/2312-797X-2018-13-2-121-130

АНАЛИЗ НЕКОТОРЫХ ОШИБОК, ВЫЯВЛЕННЫХ ПРИ ВЕДЕНИИ КАДАСТРА НЕДВИЖИМОСТИ

**В.А. Синенко¹, А.Н. Вольнова²,
М.В. Пичужкина², Т.И. Шияпов¹**

Российский университет дружбы народов
ул. Миклухо-Маклая, 8/2, Москва, Россия, 117198

²Филиал ФГБУ «ФКП Росреестра» по Московской области
ул. Агрохимиков, д. ба, р.п. Новоивановское, Одинцовский район,
Московская область, Россия, 143026

Одной из наиболее распространенных причин приостановления процедуры государственного кадастрового учета либо государственной регистрации прав на объекты недвижимости являются ошибки, которые содержатся в сведениях кадастра недвижимости. Наличие ошибок в Едином

государственном реестре недвижимости, в том числе ошибок в правоустанавливающих документах на объекты недвижимости, является основанием для приостановления и отказа в государственном кадастровом учете и дальнейшей регистрации прав на объекты недвижимости. При таких обстоятельствах заявитель вынужден доказывать нарушение своих прав. В случае выявления наличия ошибочных данных в сведениях кадастра недвижимости в отношении объекта недвижимости такие ошибки автоматически экспортируются в различные базы данных, а в следствие чего приводят к большому количеству ошибок в сведениях кадастра недвижимости, а также различных реестрах и кадастрах. С введением в действие Федерального закона от 13.07.2015 № 218-ФЗ «О государственной регистрации недвижимости» процедура исправления ошибок в Едином государственном реестре недвижимости существенно упростилась. В своей статье авторы проводят анализ текущей ситуации баз данных кадастра недвижимости и приводят примеры наиболее распространенных на практике технических ошибок при ведении и осуществлении кадастра недвижимости.

Ключевые слова: кадастр, объекты недвижимости, земельные участки, кадастр недвижимости, реестр недвижимости, реестровая ошибка, кадастровая ошибка

БИБЛИОГРАФИЧЕСКИЙ СПИСОК

1. Федеральный закон Российской Федерации № 218 от 13 июля 2015 г. «О государственной регистрации недвижимости» // Режим доступа: <http://www.consultant.ru/>. Дата обращения: 10.10.2017.
2. Федеральный закон Российской Федерации № 122 от 21 июля 1997 г. «О государственной регистрации прав на недвижимое имущество и сделок с ним» // Режим доступа: <http://www.consultant.ru/>. Дата обращения: 25.11.2017.
3. Федеральный закон Российской Федерации № 221 от 24 июля 2007 г. «О государственном кадастре недвижимости» // Режим доступа: <http://www.consultant.ru/>. Дата обращения: 25.11.2017.
4. *Холин М.С., Синенко В.А.* Процедура предоставления сведений государственного реестра недвижимости на примере г. Москвы. Основные проблемы // Бюллетень науки и практики. 2017. № 9 (22). С. 140—149.

Сведения об авторах:

Синенко Виктория Александровна — ассистент Агроинженерного департамента Аграрно-технологического института Российского университета дружбы народов; e-mail: sinenko.va@yandex.ru

Вольнова Анастасия Николаевна — главный специалист-эксперт отдела нормализации баз данных филиала ФГБУ «ФКП Росреестра» по Московской области; e-mail: sinenko.va@yandex.ru

Пичужкина Мария Валерьевна — главный специалист-эксперт отдела нормализации баз данных филиала ФГБУ «ФКП Росреестра» по Московской области; e-mail: sinenko.va@yandex.ru

Шияпов Тимур Илхамович — ассистент Агроинженерного департамента Аграрно-технологического института Российского университета дружбы народов; e-mail: shiapov_ti@rudn.university

Для цитирования:

Синенко В.А., Вольнова А.Н., Пичужкина М.В., Шияпов Т.И. Анализ некоторых ошибок, выявленных при ведении кадастра недвижимости // Вестник Российского университета дружбы народов. Серия: Агронимия и животноводство. 2018. Т. 13. № 2. С. 121—130. doi 10.22363/2312-797X-2018-13-2-121-130.