

# Property Records Department is Placing Liens on Properties in Costa Rica Without Informing Owners

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On most Real Estate transactions there are two initial items to be checked by any interested buyer: the existence of a Plot Map or “**Plano Catastro**” duly recorded at the National Cadastre Office as well as proceed getting a title certification from the Property Records Department or “**Registro Inmobiliario**”. This information is of major importance as the plot map represents the physical description of the property (location, size and shape), and the title certification discloses the legal status (owners, mortgages, judicial or governmental liens). Both things will provide the information needed to start the due diligence process to ensure a safe purchase.

The National Cadastre Office has been recording plot maps for decades, meaning there are several plot maps that were made with very old techniques therefore with lots of inaccurate data. To increase the problem, that office always worked separate from the Property Records Department on the registration process. These factors permitted surveyors to proceed registering plot maps that together represent several thousand square kilometers extra than the actual size of the country. Yes, that means putting all plot maps together the country turns out to be much bigger than the actual size. This has caused lot of property conflicts especially in rural areas on Costa Rica.

This scenario has created an entire menu of different problems: there are totally different properties registered with the same plot map number, properties registered with partially or totally overlapped plot maps and even plot maps registered with properties that can't be physically located. An old law named “**Ley de Informaciones Posesorias**” helped a lot to create this scenario. Initially created as a tool to help owners of untitled properties to obtain a

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title ended up being a great tool for crooks. As example, that law permitted the double title registration on a farm located in a small town of Cartago; which caused that an entire town named Purisil remained decades without any title for its inhabitants.

The authorities finally realized that this lack of accuracy on property titles and plot maps was a major obstacle to attract foreigner investments, creating lots of property conflicts in Court. So two important decisions were made starting in 2009: The first: An amendment to the Law of Creation of the Property Records Department merging it with the National Cadaster Office into one office named “Registro Inmobiliario” or Real Estate Property Registry. The second: the approval to obtain a loan from an international bank -BID- in order to create a national cadaster map using top notch technology. Finally, this was the step to start putting the house in order.

After that the government started a project named “**Programa De Regularización Del Catastro Y Registro**“. It started being applied in Guanacaste and the northern part of the country. It then headed down to the south of the country. By 2018 it is nearly finished. Basically, consists on making a full scan of the country using satellite images, GPS and other technologies to later compare with the current registered properties and each plot map. During the process they have found lot of problems on several properties. Next, a technical report is produced for every area which is sent to the Director’s office.

Every time an inconsistency is found the Real Estate Property Registry proceeds placing a lien on the affected property or properties which will appear as “**Aviso Catastral**“. Such inconsistencies can be a property showing the location in one district when really should be a different district, when there are significant differences in size between the existing paperwork and reality, or when a plot map conflicts partially with those registered for the adjoining properties. If the problem has to do with overlapped plot maps or doubled titled properties a stronger lien named “**Inmovilización**” will be set, basically preventing the owner from making any movement on the property.

One important aspect to consider is that there is no obligation for that Department to inform or serve the affected owners about the lien. Many landowners now have this type of lien registered against their properties and don’t even know about it. In many cases the problem is not hard to solve: usually involves hiring a topographer who can register a new plot map with exact data or reach an agreement with the neighbors on the correct boundaries. If no agreement can be reached or the title problems are really big and complicate, the lien will remain there until the parties solve the conflict in a Court of Law. These type of lawsuits can take several years to be resolved.

If this type of lien appears on any property, the owner can obtain copy of the technical report issued by the governmental institution. Next step is to take it to a surveyor to obtain an opinion to finally look for a qualified attorney to get legal advice. On a recent case a lien was placed over 3 properties because partial overlapped plot maps. However, the owners of 2 properties demonstrated that it was a plot map registered by the third property the one who caused the problem because a couple of coordinates were wrong. With the right arguments submitted, it was decided that only that third property will remain holding the lien whilst the other two got

immediately released.

The good part of all this is that in the near future all real estate property titles will become more secure, because new plot maps will require having a perfect fit along with the properties they represent, so when problems such as overlapping or lack of agreement with the master map are encountered the new plot map would be rejected. It is advisable to check the properties frequently this year, as the “**Aviso Catastral**” or “**Inmovilizacion**” lien may suddenly appear on any property. The good part is that all properties can be checked by any person at the website of the Real Estate Property Registry on their website at [www.rnpdigital.com](http://www.rnpdigital.com)

**About the Author:** Allan Garro was incorporated as a lawyer and public notary in 1996. He specializes in Litigation, Corporate and Real Estate Law. He has also acted as external legal consultant to Congress. He has been the author of more than 100 published English Language articles and can be reached at [\[email protected\]](#)