

Selling Property and Mortgaging in Sweden – A Simple Matter

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Key words: Conveyance, mortgage, cadastre, property register, land register.

SUMMARY

The Land Data Bank reform was implemented in the 1970: s and completed in 1995. Today all registration about all properties in Sweden takes place in the computerized Real Property Register. In addition a new law on computerized mortgage certificates (CMC) was implemented in 1994. Today all credit holders use both systems. The real property registers for collecting information and the CMC for, for example, storing mortgage certificates.

Buying property and getting a mortgage is a simple matter in Sweden and it can be handled in a couple of days. The process does not require a lawyer or any other professional assistance. In Sweden we don't have any notaries.

The computerized systems involved facilitate the contacts between a real estate agent, the credit holder, the Land Register Authority and Lantmäteriet.

The banks/credit holders have an important role in the process of conveyance. Not only when it comes to applying to the Land Register Authority, the Bank is also paying the taxes and fees collected by Lantmäteriet.

All transactions are registered. The registers are totally reliable and are guaranteed by the state. The transparency in the registers and the fact that all actors on the property market use them is also promoting competition.

The studies made by the World Bank, World Bank's Doing Business, confirms the easiness of the process. <http://www.doingbusiness.org/ExploreTopics/RegisteringProperty/>

The topic examines the steps, time, and cost involved in registering property, assuming a standardized case of an entrepreneur who wants to purchase land and building in the largest business city already registered and free of title dispute.

The main indicators includes the number of procedures legally required to register property, the time spent in completing the procedures, and the costs, such as fees, transfer taxes, stamp duties, and any other payment to the property registry, notaries, public agencies or lawyers.

The description below of the process in Sweden compared with the results from the study made by the World Bank tells us that the process of conveyance and mortgage, and even lending money to buy a property, is an easy way of dealing with very important business of selling and buying property.

The implementation of the registers has been successful. That, and the fact that all actors on the market uses and totally accepts the registers, lead me to come to the conclusion that Sweden has the leading systems for handling real property transactions.

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1. BACKGROUND

The historical reason for registration of rights to land is of course the need of land information for taxation purposes. The registration in Sweden has been done in different kinds of books up until the Land Data Bank reform was implemented in the 1970: s. The reform was completed in 1995 and today all registration takes place in the register.

The purpose of the land register is to give publicity and legal protection for purchases, mortgages and other legal actions and to establish certainty of ownership and rights to land. A well functioning land registration system is a prerequisite to guarantee security and facilitate economic transactions. The contents of the Swedish land register are guaranteed by the state. The land register authorities are responsible for the contents of the register. That means for example that if you suffer economic loss because of mistakes in the register you are entitled to economic compensation.

Since July 1 2000 all registration concerning land, including the land register, is done in the real property register. The Real Property Register consists of information about cadastre, including the cadastral map, land, addresses, building and property tax information.

In the year 1994 a new law on computerized mortgage certificates was implemented. Today all credit holders use the system. The CMC is both a register of computerised mortgage certificates and a processing system for those customers affiliated, mostly banks and credit institutes, to the system.

2. THE REAL PROPERTY REGISTER – THE PART THAT INCLUDES LAND INFORMATION

The real property register consists of real property information, land information, addresses to the real properties, information about building and property tax assessment.

The real property information consists of

- property units
- joint property units
- coordinates
- plans
- precincts
- joint facilities and
- the cadastral index map

Land information consists of the legal records of

- Title
- Site leasehold grant,
- Site leasehold right,
- Encumbrances such as mortgages and rights of use,
- Official notifications and
- History

The title is the registration of the purchased ownership to a real property.

3 MORTGAGE

Mortgage is made for security towards banks when they give a loan to buy a house. A mortgage certificate is issued by the land register authority (hereafter called the Authority). The registered owner applies for registration of a mortgage, often via a bank. The Authority's proof of registration of mortgage is called a mortgage certificate. Most of the certificates are computerized. This certificate has nothing to do with the actual loans you have taken, for example with a bank, with the property as security. The document you sign at the bank, the recognisance of debt, is not registered in the property register. It is regarded as a private matter between the bank and the owner of the property. The mortgages are registered in order of priority. The creditors that holds the first mortgage certificate has priority.

When you have paid back your loan you get the certificate back and you can use it again as security for a new loan.

In the property register the mortgage is registered in figures. The mortgage sum can be noted in any currency with an exchange rate. The mortgage applied for must enclose the total of the real property.

3.1 The Computerized Mortgage Certificate System

On July 1, 1994 an act about the Mortgage Certificate Register and the Mortgage Certificate Register Ordinance came into force, radically changing the handling of mortgage certificates. Through the Act the term Computerised mortgage certificate was introduced.

The CMC is both a register of computerized mortgage certificates and a processing system for those customers affiliated, mostly banks and credit institutes, to the system. Affiliated customers can, online, in a simple way exchange computerised mortgage certificates. The term mortgage certificate holder was also introduced as a description of the person who has control over the registration i.e. the credit grantor. Lantmäteriet is responsible for registration in pursuance of the Personal Data Protection Act.

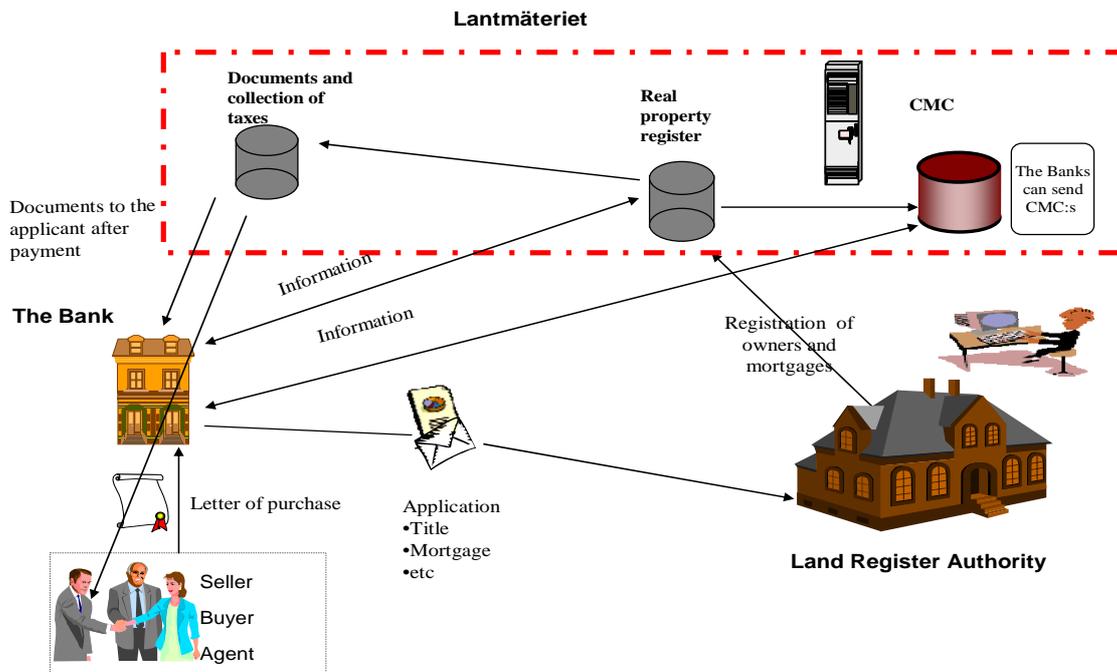
There are about 10, 2 million mortgage certificates. Most of them, more than 8, 6 million, are now computerized mortgage certificates.

The aim is to facilitate credit granting and administration as well as increasing safety and reduce costs. For the credit grantors who are affiliated to the system the handling of mortgage certificates can in principle function without paper. In the system the credit grantors, when it comes to real property, have total control over their deposited securities. Only the Bank who is the credit holder can get access to the information on a specific mortgage. Other Banks can only get access to information if that Bank is to be the new credit holder. In that case the new Bank can order the mortgage certificate from the holder via the CMC.

Implementing this system in 1994 has made the process of transferring the mortgage certificates cheaper and more efficient. It is also easier for the real property owner to transfer the loans to other credit holders.

4 THE PROCESS OF CONVEYANCE AND REGISTRATION

This picture describes an example of the process of buying and selling a property. Register the property, mortgage it and so on. Selling property and mortgage it is a simple matter in Sweden and it can be handled in a couple of days. Why is that?



A person wants to sell her property. She turns to a real estate agent (although that is not compulsory) and makes a deal with him concerning the price to demand for the property, the price for the service and so on. The real estate agent produces a property description and advertises the property and, hopefully, finds a buyer. The real estate agent is at this point representing both the seller and the buyer. But, the seller is the one paying the agent.

When a seller is found the real estate agent rights a contract with all the details concerning the purchase. You don't need a lawyer for this transaction. You don't even need a contract but in most cases there is one.

The real estate agent can also provide a contact with a bank to finance the deal. After the payment is fulfilled the real estate agent writes the letter of purchase. This document has to be in writing and signed by the two parties. That is compulsory. This document must state the amount of money paid for the property and have a sentence that says that the owner transfers and sells the property to the buyer. Ownership is made by the contract (if there is one) and/or the letter of purchase, not by registration.

In most cases the bank that will give the buyer the loans to finance the purchase wants to apply to the Authority for the title and for the mortgage, if that is necessary. The Bank therefore applies and the Authority notes that the Bank is the contact acting for the buyer (that is of importance later in the process).

The process does not require a lawyer or any other professional assistance. In Sweden we don't have any notaries.

Before the Bank applies it checks all the information in the property register for the property in question. In the property register the Bank can see who is the owner, how much the property is mortgage for, what is the assessed value and so on. If the Bank already is the holder of the mortgage certificate because the previous owner was a customer at the Bank, the Bank can see the mortgage in the CMC. If the previous owner is the customer with a different Bank the new Bank must order the mortgage certificate from that Bank. That is done in the CMC.

There is a demand to make a written application if you want to register a title. The original acquisition document has to be presented to the authority together with one verified copy. The sellers and the buyers names, civic registration numbers and signatures have to be on the document together with, if the seller is married, the spouses signature. There is a special rule for this consent from the spouse.

The Authority gets the application and registers the following information:

- The applicant's civic registration number and his name. The Authority does not register the address. The address is automatically taken from a different register. However when you look at the screen you will see the address. The address is thereafter a part of the register.
- The share of the real property. According to Swedish law you can own a not specified share of the property. It's very common that married couples buy half each of the real property. You can never own a specified physical part of the area of the property. If you purchase a specified part of the area you have to apply for subdivision.
- The type of acquisition and the date stated on the document of purchase, you buy the property (letter of purchase). You can also get the property by inheritance, bequest or gift.

- The purchase sum.
- A new mortgage

The Property Register and the CMC updates the day after registration.

This process takes 1-3 days from the point when the Authority gets the application to the point when the registers are updated and the information is available for the user to see.

At the same time as the Property Register and the CMC is updated information is sent to the system that takes care of documents and collection of taxes and fees. Documents that are sent out are for example title certificates and mortgage certificates (if they are in writing). Lantmäteriet is the collector of taxes and fees.

The stamp duty for purchases and exchange is 1,5 % for natural persons and 3 % for juridical persons. The stamp duty is 2 % of the amount of money applied for in a mortgage. The charge for applications for register a title is 825 SEK. For a mortgage it is 375 SEK. The fees shall cover costs for registration at the Authority and for the costs at Lantmäteriet for keeping the computerized system.

If, as in this example, a bank is the applier the documents is sent to the bank and the money for taxes and fees is drawn from an account at the bank. The Bank sends the documents to the property owner and also gets the money for taxes and fees from her.

5 THE STUDIES MADE BY THE WORLD BANK

The studies made by the World Bank, World Bank's Doing Business, confirms the easiness of the process. <http://www.doingbusiness.org/ExploreTopics/RegisteringProperty/>

This topic examines the steps, time, and cost involved in registering property, assuming a standardized case of an entrepreneur who wants to purchase land and building in the largest business city already registered and free of title dispute.

The main indicators includes the number of procedures legally required to register property, the time spent in completing the procedures, and the costs, such as fees, transfer taxes, stamp duties, and any other payment to the property registry, notaries, public agencies or lawyers. The cost is expressed as a percentage of the property value, calculated assuming a property value of 50 times income per capita.

In Sweden there is one procedure that takes two days and the cost (and this is for juridical persons) is 3 percent of the purchase sum. For natural persons the cost is 1,5 percent.

You can see in the studies that Sweden and Norway is the only countries with only one procedure. Why are there only two countries that have narrowed it down to one procedure? There is several reasons as I se it.

- The register have been computerized for a number of years
- The registration is compulsory and almost everybody register when they buy a property
- Lantmäteriet is both responsible for the register and the tax collecting part of the procedure
- the payment of taxes takes place after the registration in the Property register
- no legal assistance is required when selling a property
- the procedure is simple and you can apply yourself both for registration of title and mortgage without any legal assistance
- notaries do not exist in Sweden

REFERENCES

<http://www.doingbusiness.org/ExploreTopics/RegisteringProperty/>

BIOGRAPHICAL NOTES

Monica Högberg is the head of the department at Lantmäteriet that works mainly with the Real Property register that includes the cadastre and the land register and the computerised Mortgage Certificate System. She is a lawyer and specialises in juridical issues concerning land and real property and protection of personal data. She has also worked as a consultant for Swedesurvey, the overseas agency of Lantmäteriet.

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