

BLOCKCHAIN AND REAL ESTATE: A “REAL” OPPORTUNITY

Blockchain technology provides huge potential and disruptive impact in many fields. Is the Spanish real estate sector ready for this? Let's look for some areas where there are real opportunities for development.

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Blockchain is worldwide known as the technology behind Bitcoin, the first encrypted currency. It is a broad term which refers to a software technology that enables an encrypted electronic ledger. The ledger is updated by multiple parties working through a consensus system which allows linking chronologically each state of the ledger to the preceding one. And this system creates an immutable record of all transactions occurred.

In simple words, a blockchain is only one of the many types of data structures providing a secure and valid track record and achieving distributed consensus among all participants.

Blockchain presents clear advantages in a large number of disciplines, but for those who still feel themselves at the “stone age” of the proptech revolution, we will take three unblemished examples.

BLOCKCHAIN MAY HELP OUR AUTHORITIES TO IMPROVE PUBLIC REGISTRIES

There is consensus in Spain, despite the recent efforts brought in this field by public authorities, that it will still take ages to coordinate the information available at the land registries (*Registros de la Propiedad*) and the municipal cadastral offices (*Catastro*). This mismatching is increased when we obtain information from the planning municipal departments about planning rules and licenses in place for the same property.

Instead of resisting themselves to perceive this disruptive technology as the evil, public authorities should be ready to use it as a key partner to develop their activities and achieve real connectivity or even converge into a single registry. Spanish land registrars operate a powerful system and blockchain would allow them to even improve data management with the aim of reducing fraud in title registrations, providing timely and comprehensive information and making it easier the due diligence process of a particular property.

This would not imply that notaries and registrars disappear. Most likely, there should always be a public authority feeding all this system and making public spaces available to allow the public to have full (or in some cases restricted) access to the information.

PRIVATE TRANSACTIONS AND SMART CONTRACTS

Blockchain can make a big difference in the real estate industry is through the use of “smart contracts” to execute transactions.

The smart contracts are computer programs allowing business agreements to be executed automatically when certain conditions agreed among the parties are met. A good example would be a lease contract for retail space by virtue of which the tenant pays a fixed monthly rent subject to indexation annually.

Such indexation, payment of new rent and notices to the tenant could be automated in the same way as, with a standing instruction, a retail bank pays your utility bills monthly and simultaneously report you, no matter what amount it may be in a given month, and provided that the system has incorporated the automatization of the payments.

Smart contracts would avoid potential breaches arising from doing “manually” some sort of transactions under a contract, and make real estate more transparent and reducing time-consuming staff. The automatic execution provided by smart contracts also avoids clear legal risks such as some force majeure events, third-party interferences or deliberate non-performance by one of the parties.

If the rent indexation is applied automatically by the smart contract based on information obtained from the official statistics service, the benefits for portfolio property managers with hundreds of contracts under annual review are tangible when the program implements the transaction automatically and this remains stored in all parties systems.



The system of validating transactions through an algorithm on a blockchain also allows parties to establish the trust required to transact remotely without the need of physical meetings or third party intermediation. That will allow expansion teams to reduce time consuming trips to exchange contracts and close deals everywhere. In other words, this will make our commercial transactions smoother and faster.

REAL ESTATE FINANCE

Another important use of blockchain technology will be for commercial real estate finance.

Once the loans are booked by banks, blockchain would allow them to track all borrowers' payments, covenant compliance and potential defaults. Blockchain also facilitates prompt and accurate record keeping and document filing, with the benefit of reducing potential mistakes and loss of original titles.

Smart contracts would also allow seeking automatic enforcement obligations in an event of default.

OUR CONCLUSIONS

The real estate industry lives in a complex and ever-changing regulatory landscape. Technology is simply rewriting the rules for about everything around us. Lawyers should be ready to help industry players in this process. And blockchain seems to be a key tool in the future.

Is the industry ready to move on? ■