

APPROPRIATING URBAN RENT IN THE NEOLIBERAL SPANISH CITY

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The Spanish neoliberal agenda has been specifically linked to specialization in what is known as the secondary circuit of capital (Harvey, 1982; Lopez and Rodriguez, 2010). This has involved a gradual reduction in landowners' importance and hegemony and a parallel rise in the importance of developers and financial institutions in matters concerning the appropriation of real estate income.

This paper aims to address this issue, looking at the case of Spain, through an analysis of two parallel processes: first, the evolution of urban planning legislation approved since the 1990s and, secondly, the evolution of mortgage legislation. In combination, both mechanisms have led to the financialization of land and its integration into global circuits of capital through mortgage securitization, determining the emergence of a system of capital accumulation based on urban real estate which typifies the current crisis (Harvey, 2012: 51-106).

I. THE NEOLIBERALIZATION OF SPANISH URBAN PLANNING LEGISLATION

In Spanish urban planning, owners of land classified in municipal plans have traditionally been recognized as having a preferential right to capitalize urban development gains in exchange for certain obligations (the surrender of certain land for public infrastructure or utilities, payment of the cost of this development work, construction within a certain time period, and the surrender of 10% of the used land as from 1975).

This system is highly singular (García-Bellido, 1999) since, in other countries, municipal plans do not grant such strictly guaranteed rights to owners even though the end result of the process might be similar. As noted, this model perpetuated the basic precepts of the 1956 Franco Act in its capacity as "the radical perversion of the construction sector's traditional endemism (...) [since] the easy money that this system engenders is all too tempting" (García-Bellido, 2004: 294).

II. THE NEOLIBERAL EVOLUTION OF SPAIN'S SINGULAR URBAN PLANNING SYSTEM

In the 1990s, the entrepreneurial sector championed a change in urban planning through a shift toward liberalization, based on two strategies that lead to different scenarios: an

aggregate or single-headed model versus a disaggregated or two-headed one (García-Bellido, 1989: 210-221). The first was politically conservative in thinking and the second liberal.

From a doctrinal point of view, in 1993 when an important liberalizing financial law had already been passed, two studies for the liberalization of the land market emerged, based on different strategies. The first was a report by the Tribunal de Defensa de la Competencia (Competition Commission), which encouraged liberalization through aggregate single-headed approach.

The second important doctrinal contribution to the proposed liberalization of the land market was the publication of an article by Javier García-Bellido entitled “The effective liberalization of the land market. Breaking away from the right to real estate ownership in an advanced society” (García-Bellido, 1993), which clearly distinguishes between authority to use and dispose of land and authority over things of urban public interest. The aim was to prevent private owners from curbing private initiatives.

The first major innovation directed at doing away with owners’ quiritary monopoly was *Act 6/1994, of November 15th of the Valencia Regional Government, regulating urban development activity*. The novelty of this act and other regional laws that followed it was that it replaced former landowners with new real estate owners/developers, boosted by the process of development of today’s new cities and, consequently, by the appropriation of the capital gains generated by this process.

A conservative aggregate urban property model was consecrated in 1998 with the approval of *Spanish Act 6/1998 on the land regime and valuation system*. This law establishes that all unprotected land can be developed and that the value of the land shall be the equivalent of the anticipated business profits of virtual activities yet to be carried out” (Fernández, 2011: 80). That is to say, all land that is not explicitly protected can be developed and the value attributable to its owners is recognized as being the aggregate single-headed urban property value.

Neither approach has achieved the goal of controlling the price of housing to make it accessible to most of the population, because lowering the price of land for developers by not forcing them to pay the expected speculative value that owners used to demand has merely resulted in this expected speculative value being passed on in its entirety to the developer. As a result, this has not led to a drop in housing prices.

Given the evidence of both strategies’ vain attempt to bring down the price of housing, the cause of its constant rise should be sought by looking at other factors that transcend pure urban planning policies. This is where financial policies enter into play.

III. THE FINANCIALIZATION OF LAND AND ITS INTEGRATION INTO GLOBAL CIRCUITS OF CAPITAL: THE EVOLUTION OF SPANISH MORTGAGE LEGISLATION

As had already occurred with the 1970s Fordist crisis (Harvey, 2005), ways of appropriating real estate income began to change as a result of the shift in the Fordist production system itself; a shift encouraged by the gradual emergence of neoliberal policies and financialization.

With land transformed into a financial asset that is bought and sold, it is no longer land in itself, but the expected fictitious right to any presumed potential income from its urban development (Harvey, 1982). This is accomplished through the purchase and sale of real estate and financial securities: mortgage securitization, which aims “to avoid the risk of defaults on payment, in addition to increasing the scale on which mortgage loans are

generated” (López and Rodríguez, 2010: 291-2). In Spain this occurred with *Spanish Act 19/1992 of July 7th on the system governing real estate investment companies and funds and mortgage securitisation funds*.

With this act, mortgages – conveniently packaged into products of varying qualities – were launched onto the securities market (Jiménez and Sánchez, 2002). In this way, the Spanish mortgage market joined international financial circuits, significantly increasing its growth potential and its risk; a very important change in the role of credit in the consumer society (López and Rodríguez, 2010). With this new formula “credit was no longer optional” (López and Rodríguez, 2010: 285) but an essential factor in consumerism. In fact, with the drop in the growth of wages, credit became the main gateway to consumption.

With an increasingly broad flexible mortgage market, credit institutions gradually devoted a larger part of the loans they granted to financing housing or to property development. As a result, there was a shift in urban planning legislation toward the neoliberal approaches outlined above.

In 2007, *Spanish Act 41/2007 of December 7th* was passed, amending *Spanish Act 2/1981 of March 25th on the regulation of the mortgage market and other rules governing the mortgage and financial system and on the regulation of reverse mortgages and long-term care insurance for which a certain tax regulation is established*. Its preamble recognizes that housing finance represents “about two thirds of the value of the total wealth of the state’s households, while this funding also depends on the mortgage market”. At the same time it was also acknowledged as being one of the “segments of the financial system with the greatest influence on macroeconomic and financial stability”. That is, thanks to the loans granted by financial institutions, two thirds of households’ wealth was comprised of debts and the economy’s financial stability was based on this debt.

In 2008, *Spanish Royal Decree Law 2/2008 of April 21st on measures to boost economic activity* allowed the maximum limit for the granting of state guarantees on asset securities to be raised to 3,000 million euros. With this measure, this type of asset was even further promoted, an objective acknowledged in the preamble to the royal decree approved by the now Socialist government.

Neither did the 2007 crisis manage to halt the increase in securitization-based products, which have continued to monopolize the banking sector’s financial activities. Given this financial storm, it has been hard for urban planning policies to resist the shift toward neoliberalism, with all unprotected land becoming potentially developable at the initiative of its owners or else it becoming possible to develop land rated as apt for development, regardless of the land’s owners. Loaned money (albeit fictitious) flooded the land market, and urban planning policies merely attempted to channel this flood, either with plans that defended owner interests or with ones that defended those of developers.

IV. CONCLUSIONS

Classic capitalist mechanisms for appropriating real estate income in Spain have been radically transformed.

More attention has been paid by urban planning academics to changes in the traditional Spanish urban planning system than to events in the financial system. However, if an analysis

is made of the chronology of both types of legislation, it can be clearly observed that what came first were financial liberalization reforms, leading directly to a new neoliberal approach to Spanish urban planning. The neoliberal regulation of the mortgage system came into being with the approval of a law in 1981 and securitization was given the green light in 1992; one year prior to the first studies and reports in favour of different forms of liberalizing urban planning and two years before the approval of the first liberalizing planning act, the LRAU, in one of Spain's 17 self-governing regions. Thus, it has been 1980s and 1990s neoliberal economic and financial ideas that have dragged urban planning policies along the road of neoliberalism.

The adaptation of mechanisms for producing/appropriating real estate income in Spain to the new neoliberal system of capital accumulation has been carried out in two different albeit complementary fields, finance and urban planning. In the first case, financial activities have been liberalized through the introduction of new mechanisms, such as securitization, which resulted in mortgage flows surpassing the possibilities of the real or productive economy. In the second case, urban planning was deregulated in two non-opposing ways: allowing for the development of all non-protected areas and opening the gateway to the enforced sale of land to tender-winning developers.

As a result of financial and urban planning changes in Spain, the role of stakeholders in the production and appropriation of income from urban development has led to a change in trading relations, from the initial owners of land to financial institutions.

With the Fordist model, because owners sold their land as a matter of choice, they were in a position to demand part of the urban development income generated as a result of the creation of urban areas. This meant that they could potentially obtain a higher percentage of this income or, at the very least, a way of obtaining it without the risk of actually developing the land. Meanwhile, developers sought the services of local financial institutions with a lending capacity directly conditioned by the amount of money deposited by their customers, who were mainly locally based.

The neoliberal model incorporates two important new factors in comparison with its Fordist predecessor in the fields of urban planning and finance. On the one hand, the relationship between owners and developers is no longer based on sales made through choice but on compulsory sales, where prices are proposed by tender-winning developers. At the same time, mortgages previously taken out by developers or private individuals are securitized, directly linking the system with worldwide financial markets, thus providing the funding that regional financial institutions were unable to provide.

In this sense, the Fordist dispute over real estate income between owners and developers is becoming a thing of the past. It is no longer possible to talk about a social class of urban property owners but instead we must talk about power groups or oligarchic urban development lobbies. With this change, some business groups have become dominant stakeholders in the current process of the production/appropriation of real estate incomes. This also means that those who control the property market come to play an active role in creating the conditions that allow them to boost their future income through policies aimed at reclassifying and revaluing urban land. It is not so important whether land is in the hands of owners or developers. What really matters is who owns the mortgage behind the development process or purchase of housing.