

A Study on Introduction of Licenced Title Examiner Reflecting Theory of Real Estate Title Analysis in Korea

한국 부동산 권리분석이론에 비취본 권리분석사제도 도입에 관한 소고

특별기고

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1. 내 용

(1) 연구목적

본 연구는 부동산개발, 부동산중개, 부동산감정평가활동을 중심으로 살펴보고 이에 근거하여 부동산권리분석활동의 필요성을 제시하고자 한다.

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(2) 연구방법

한국의 대표 문헌연구를 통해 부동산권리분석업의 현황과 문제점, 권리분석사 제도의 필요성을 유추하고자 한다.

(3) 연구결과

우리나라에는 부동산 권리를 조사하는 공식적이고 독립적인 업이 아직 존재하지 않는다. 자주 발생하는 부동산거래사고의 안전을 위해서 또한 부동산권을 보호하기 위한 초기 단계의 전문직이 필요하다.

2. 결 과

부동산 권리분석은 부동산거래의 안전과 국민경제의 발전에 이바지하고 각종 거래사고를 미연에 방지함으로써 부동산과 인간과의 관계개선에 이바지한다. 또한 분쟁의 소지를 감소시키고, 국민의 재산권 보호와 부동산거래질서 확립에 이바지하기 위해서는 공인된 권리분석사 제도의 수립이 절실히 요구된다.

3. 핵심어

- real estate, property rights, real estate title analysis, license real estate agent, certified appraiser, title examiner
 - 부동산, 부동산권리, 부동산권리분석, 공인중개사, 감정평가사, 권리분석사
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I. Introduction

1. Background and Purpose of Study

Today, diverse real estate activity of human beings is indebted to machinery power thanks to development of scientific technology, but it is more complicated in facing environment.

Accordingly every man has to take a risk in decision making in ownership, use and development of real estate, etc. Futhermore, in evolvment of real estate activity, it is an important task to seek more reasonable, efficient evolvment method in view of individual, enterprise or

government.

However, there exist many unreasonable cases in real estate activities that human beings conduct. Real estate activity which human being conducts could be intentional or unintentional. In addition, even though intentional activity, the activity does not always evolve reasonably.

Anyway, for the desirable real estate activity, artificial efforts are needed in activity because real estate activity has influence on real estate phenomenon. Of course, real estate phenomena do not come out from artificial real estate activities, but it is natural that artificial real estate activity

has much influence on real estate phenomena.

To evolve desirable real estate¹⁾ activity before mentioned, the concept of real estate should be clearly defined in view of institutional and legal aspects and real property in view of general management aspects. In addition, property rights that may make capital gain at the time of the disposal of real estate and during the period of possession or operation of real estate should be defined well. Otherwise, it is difficult to solve various problems that erupt in the process of real estate activity.

Especially, in real estate activity, a real estate transaction accident will be a serious problem among real estate problems. The accident centered on real estate transaction depends on the possibility of occupation or possession of real estate, or the possibility of transferable succession or erection succession. The incident of transaction that occurs mainly during the process of change of rights accounts for a great percent than that of the alteration of the subject or the alteration of the function.

Real estate transaction incident corresponds to an impossible realization in a juristic act (mainly contract), and legal impossibility especially in the case of privity of violation of effect rules. The person who wants to acquire rights has to bear the assumption of risk.

In urbanized and industrialized modern society, the weight of real estate is 46% of the GDP. Together with economic development, real estate transaction by

real estate development, real estate brokerage, and real estate appraisal, etc. briskly occurs. Of course, the transaction accident is also much increased in proportion to development. Accordingly, it is keenly necessary to take a protection measure for property loss and spiritual damage of crimes.

Thus, this study centers on development, brokerage, appraisal, and assesment of real estate, and it will suggest the needs of real estate title analysis. In this respect, this study aims at studying literature from the theoretical point of view of title analysis to discover the precedence of real estate phenomena by using scientific the method, theory, and related works.

In addition, it will contribute to develop scholarly circles as well as practical circles of real estate through providing specialization of real estate title analysis and understanding of real estate title analysis.

2. Scope of Study and Method

Real estate science itself is a synthetic applied science that exploits the principles and techniques of efficiency (safety and economical efficiency) of real estate activity.

Futhermore, if a real estate transaction incident occurs, the derivative problem thereafter is big because real estate activity is closely related with human life. Real estate transaction incident is approved to a complex concept due to defects in view of

1) Lee, Chang-Suck, et al, *Happy Story of Real Estate Service*, Ribuks Publishing, 2013, p.13.

technical, economic, or lawful aspects. To prevent and to cope with a real estate transaction incident, it is necessary to institutionalize the real estate title analysis business. The scope of study and method is as follows:

To begin with, the scope of study conducts the concept of analysis of real estate rights and basic contents and classification of title analysis. In addition, it will enhance the efficiency of real estate activity through the systematization of the theory of real estate title analysis and transaction incident.

Furthermore, establishment of a real estate transaction method and transparency heightening of the real estate market contribute a great deal. This study mainly investigates literature from the theoretical point of view of title analysis to discover rules of real estate phenomenon by using scientific materials, thesis, dissertations, and associated books.

II. Theoretical Study of Title Analysis of Real Estate

1. Concept of real estate title analysis and its position in real estate science

Real estate title analysis is a

series of transaction processes for the acquisition of real estate ownership with safety in real estate activity²⁾ Here, the subject of study is real estate rights for the recognition of analysis. Namely, title analysis of real estate is to analyse a composite word between real estate and rights.

Thus, to look into the meaning of real estate and its following meaning of rights is said to grasp the concept of real estate title analysis.³⁾

The technology of real estate title analysis mainly analyzed ownership rights by public record books in the early stages, but nowadays, it analyzes the matter of fact even to the tangible side of real estate.

Rights as property rights of real estate other than general rights clearly evidenced rights and interests by historical experience.⁴⁾ Namely, real estate rights, especially real property ownership, are socially and additionally recognized.

Professor Kim Young-Jin classified the theme of real estate title analysis as one of the applied areas of real estate science. The activity of real estate title analysis belongs to transaction activity when it divides into ownership activity and transaction activity.⁵⁾ Professor Kim, Tae-Hoon divides the position of real estate title analysis into "interior position related to real estate and external position

2) Lee Chang-Suck, *Understanding of Real Estate Title Analysis*, Hyungseul Publishing, 2001, p.35.

3) Kim, Yong-Min & Lee, Chang-Suck, "Theoretical Approach to Real Estate Title Analysis", Daehan Real Estate Association, Treatise, 2001, p.99.

4) George J. Sidel of Jenis K. Cheegem, *Real Estate Law*, West Educational Publishing Co, N.Y. :1999, p.265.

5) Kim, Young-Jin, *General Principles of Real Estate Science*, Seoul:KyungYeongMunHwaWon, 1984, p.41.

corresponding to neighbor sciences.⁶⁾

The theme of real estate title analysis should have a unique system in its studying as it is one of the exploiting means among independent theories. However, the efforts of systematization of real estate title analysis is in a weak stage because it has been attempted indirectly in scholarly circles and practical circles recently. Especially in the theory, the efforts of independent theory formation are negligent because scholar environment in Korea is usually introduced directly from foreign theories. Of course, the activity of title analysis is necessary in theoretical study effort for efficient property protection as well as sociality and publicity. Until now the effort is in an elementary stage.

The theme of real estate title analysis needs the understanding of real estate that can recognize exactly various real estate phenomena because the object of analysis is real estate and its rights. Accordingly, to do title analysis well, we need to acquire related knowledge for the understanding of real estate. In addition, as the object of real estate title analysis is both real estate and its rights, we should have primary knowledge on theories that regulate rights relations of real estate. Futhermore, both the technical side and the economic side of real estate should also be analyzed. Then a synthetic approach is achieved. Based on this footing, an analysis frame of real estate is provided.

2. Activity Stage of Real Estate Analysis and Object of Title Analysis

1) Activity Stage of Real Estate Title Analysis

Real estate title analysis is generally progressing in collecting necessary materials of title for types of rights of the object of analysis and then the procedure of their reading. Of course, we set up a plan for title analysis and analyze this simultaneously. In the end, we can achieve the expected goal through a field study concurrently.

In the case of the United States where title analysis is brisk, the activity is generally composed of the following 4 stages.

In the case of being requested to do a title analysis, first, real estate title examiner analyzes the chain of rights and the defect of rights of the object of real estate.

Next, the deed of title analysis of the object of the real estate is chronically summarized <Abstract of title>, and then the examination of title and analysis of title of <Abstract of title> are made, and in the last stage, an opinion about condition of the title is added.⁷⁾ Such summary of title analysis is mainly conducted by a lawyer or a title analysis company; if risk is recognized in the process, safety

6) Kim, Tae-Hoon, *A Study on Institutionalization of Real Estate Title Analysis Business*, Hyungseul Publishing, Konkook Univ. Dissertation, 1989, p.41.

7) Kim, Chung-Bon, et al, *Real Estate Start-Up Series 1: Real Estate Title Analysis Business*, Hyungaseul Publishing Co, 2002, p.25.

is obtained through taking out real estate title insurance.

2) Object of Title Analysis

(1) Title Analysis on Real Estate Development

① Title Analysis on Private Law of Real Estate

Real estate development can be a set of actions: physical supply by construction action for a certain desire of the object of real estate, adjustment of conflicting interest and planning, etc.

In the process of promotion of real estate development,⁸⁾ the analysis of the real estate registration ledger and status analysis (through fact finding action) precedes the time of purchasing land. Especially when physical defects of real estate (lost, damage, etc.) and defects of rights (impossibility of performance, risk of loss, etc.) occur, the project may be delayed or may not continue, and perfect ownership rights cannot be obtained. So, the analysis should be carried out carefully in this case.

An enterpriser of the developed stage is a business proprietor who is directly related with profit and loss of the development project. He/She may bear a burden of warrant against defects of right as well as things themselves due to shortening the period of construction or unreasonable

marketing activity for fast collection of primary investment money. Therefore, sufficient examination and preparedness are needed for these facts.

② Title Analysis on Public Law of Real Estate

In real estate development, the rules of public law that actively regulate, guide, and manage the ownership, use, and development for public welfare of government should be sufficiently understood and analyzed. Otherwise, perfect acquisition of real property is impossible; analysis for this is necessary to cope with risk through making a thorough analysis.

③ Physical and Technical Analysis

A transaction incident due to physical and technical defects is mainly showed in location related facts such as place, area topography, physical features of a place, direction, and traffic, etc. Place is linked with harmony with circumstances of the environment and exterior economy; area is related with the arrangement of the building and obtaining appropriate space. In addition, topography and physical features of a place are linked with construction, passing, natural draining, and soil lost etc. Futhermore, traffic conditions have mutual relations with profit because of affection of access, so the analysis of theme facts should not be overlooked.

8) Lee, Young-II & Min, Guy-Sik, "A Study about the Risk Factors on Project Financing Type in Real Estate Development", *Korea Real Estate Academy Review*, 2013. 08., vol. 54, p.112.

(2) Title Analysis on Real Estate Brokerage⁹⁾

The objects of brokerage are as follows:

① Land, buildings, other fixtures on land and other property rights referred to in Articles 3 of business affairs of Licence Real Estate Agents and Reports of Real Estate Transaction Act and its presidential Decree

② Standing timber pursuant to the Standing Timber Act

③ Mining foundation Pursuant to the Mining Foundation Mortgage Act

④ Factory foundation pursuant to the Factory Mortgage Act

When a real estate agent transacts the afore mentioned object and completes trade, the broker is entitled to receive the fixed brokerage commission from the client.

However, the same shall not apply to the cases where the transaction between clients is invalidated, withdrawn, or cancelled by his/her intentional negligence (Article 32, the same Act). In the case where a real estate agent has negligence in the course of real estate brokerage, he/she may receive revocation of qualification, suspension of qualification, revocation of registration, and order, etc. for suspension under Article 35 to 39 inclusive of business affairs of Licenced Real Estate Agents, and Report of Real Estate Transaction Act. In addition, in penal provisions of a brokerage agent, the performer shall be punished by imprisonment for not more than three (3) years or by a fine not exceeding 20 million won, or by

imprisonment for not more than one (1) year or by a fine not exceeding 10 million won, and dual punishment and negligence fine. These provisions enhance the credibility of real estate agents and induce them to conduct business with faith and trust to client.

In connection with a real estate transaction accident, Goh, Deok-Chul analyzed 439 cases. As shows in <Table 1>,

<Table 1> Doer of Transaction Accidents

	seller	buyer	broker	third party	Total
2003	11	1	15	14	41
2004	13	4	18	13	48
2005	31	1	37	20	90
2006	27	2	58	23	110
2007	31	5	36	18	90
2008	8	3	21	10	42
2009	5	1	9	4	19
Total	126 (287)	17 (3.9)	194 (44.2)	102 (232)	439 (100.0)

source : Goh, Deok-chol, Safety of Transaction Disset. Kangwon Univ. 2010, p.42.

<Table 2> Types of Transaction Accidents

	Legal Accident	Economy Accident	Technical Accident	Distribution Accident	Total
2003	36	3	2	0	41
2004	46	2	0	0	48
2005	76	13	0	0	89
2006	96	12	1	1	110
2007	81	8	0	1	90
2008	39	3	0	0	42
2009	17	1	1	0	19
Total	391 (89.1)	42 (9.6)	4 (0.9)	2 (0.4)	439 (100.0)

source : Goh, Deok-chol, Safety of Transaction Disset. Kangwon Univ. 2010, p.43.

9) Lim, Dong-Jin & Lee, Wng-Ho & Chung, Jae-Ho, "A Study on Improvement of Mutual -Aid System by Analyzing Real Estate Accident Effective Factor", *Korea Real Estate Academy Review*, 2013, vol. 53, pp.89~90.

the accident by broker is 194 cases (44.2%), which is the largest portion.¹⁰⁾ In view of types of accidents, legal related accidents occupy 391 cases (89.1%) among 439 cases, which is the lion's share.

(3) Title Analysis by Certified Public Appraiser¹¹⁾

In conducting an appraisal at the request of the persons, if an appraiser has caused loss to the client by conducting appraisal and assessment, whether intentionally or by negligence, as to bring out a substantial difference with the reasonable price at the time of appraisal or by making false entries in the appraisal papers, he/she shall be liable to compensate the losses thus caused.

An appraisal business operator-run mutual aid program, as a means of guaranteeing liability of compensation for losses, takes out a liability insurance, joins a mutual aid program run by the Association of Property Appraisers, or takes other necessary measures under conditions by Presidential Decree.¹²⁾

As <Table 3> shows, members of a mutual-aid program are 2,420 persons (99%) among 2,664 eligible applicants. Appraisal firms entered 2179 persons among 2202, and appraisal office

<Table 3> Status of Mutual-aid project

(Unit : person)

	objections of member	member	non-applicant	Remarks
appraisal firms	2,202	2,179	23	
Korea Appraisal Board	214	-	214	
Appraisal office	248	241	7	
Total	2,664	2,420	244	

source : Korea Appraisal Evaluation Association, 2009, p.3.

<Table 4> Status of Insurance premium

(Unit : 1000won)

	Accident firm	premium	period	Accident Aid
1	Daehan firm	16,825	08.01 ~ 09.01	1,682
2	Kyungil firm	24,178	08.01 ~ 09.01	2,417
3	Tongil firm	17,866	08.01 ~ 09.01	1,786
4	Samil firm	17,866	08.01 ~ 09.01	1,786
5	Hana firm	41,643	08.01 ~ 09.01	4,164
	Total	118,378	-	11,865

source : Korea Appraisal Evaluation Association, 2009, p.12.

members entered 241 persons (97.2%) among 248.¹³⁾

Since June 1, 2005, appraiser insurance liability for reparation has

10) Goh, Deok-Chul, "Enhancement Device of Safety on Real Estate Transaction", Kangwon Univ. Dissertation, 2010, p.42.

11) Kim, Yong-Min, "A Study on the Betterment of Real Estate Appraisal Legislation", *Korea Real Estate Academy Review*, 2013.8. vol.54. p.332.

12) Article 36 of Public Notice of Values and Appraisal Real Estate Act.

13) Hur, Gang-Mu & Keum, Kak-Bo, *Reasonable Operation on Mutual Aid Business of Appraiser for Guaranteeing Liability of Compensation for Losses*, Hanbooyun Publishing, 2009, p.11.

been executed. When a member of the Association takes out expert appraiser insurance, the appraiser firm aids 10% of the total insurance premiums. The basic standard of compensation for damage is confined to loss occurred during the insurance period.

3. Research of Precedence Study

In Korea, since the 1960s the price of real estate has sharply increased due to rapid industrialization and urbanization.

In the process of such increase, real estate transactions have expanded. Accordingly, real estate transaction incidents have also emerged and evolved. One of the reasons is that public trust of the real estate registration ledger is not officially acknowledged, which is made of formal examination. In addition, policy deficiency and scheme for transaction accident prevention have also become a role of incident. Thus, it is urgent to try the safety of the related transaction parts in solving various weak points, and it is also necessary to prevent the causes of transaction incidents or to improve the system and effective policy enforcement, etc.

The author will examine precedence studies related with this study in this view.

In Korea, Kim, Young-Jin¹⁴⁾ "A

Study on Classification Method of Real Estate Title Analysis," Cheoug, Jae-Keum¹⁵⁾ "A Study on Real Estate Title Analysis" presented, Kim, Tae-Hoon¹⁶⁾ explained the direction as a dissertation. Choi, Young-Kyu¹⁷⁾, A "Study on Activation of Real Estate Title Business System", etc. Establishment and activation device of the real estate title analysis business were presented. Introduction of System of Title Examiner of Real Estate was presented in "Study on Title Analysis of Land Site in Civil Execution" Nam, Gung-Jeong¹⁸⁾.

This study has synthesized and rearranged the thesis regarding real estate title analysis until now. Now, we will recognize the importance of real estate title analysis system and real estate title analysis business. Futhermore, the introduction of a certified title examiner of real estate is necessary for efficient real estate title analysis business. Thus, this study rearranges the theory of real estate title analysis based on the above literary studies, and presents reasonable alternatives. It is differentiated from other papers.

4. Real Estate Title Analysis Activities

1) Real Estate Title Analysis

Real estate services is a kind of

14) Kim, Young-Jin, *A Study on Classification Method of Real Estate Title Analysis*, Konkuk Univ., 1975, pp.110~165.

15) Cheoug, Jae-Keum, "A Study on Real Estate Title Analysis", *Korea Real Estate Academy Review*, 1979. vol. 2. pp.53~64

16) Kim, Tae-Hoon, "A Study on Institution of real Estate Title Analysis", Konkuk Univ. Dissertation, 1989, p.2.

17) Choi, Young-Kyu, "A Study on Activation of Real Estate Title Business System", *Korea Real Estate Academy Review*, 2003. vol. 21. pp108~122.

18) Nam, Gung-Jeong, "Study on Title Analysis of Land Site in Civil Execution", Konkuk Univ. 2009. pp1~88.

economic activity that has high a ratio in citizens' lives. As real estate has high a value compared with general economic life activity, highly expert knowledge and experience is needed to carry out real estate service effectively. Real estate title analysis is not yet developed. In real estate services from development to policy activity, the activity of title analysis is indispensably needed.¹⁹⁾

In the stage of transaction agreement, major title analysis activity should be completed because all agreements of either party should be included in the case of the contract.²⁰⁾ In the case of many real estate expert activities other than brokerage activity, title analysis is necessarily made.²¹⁾ As mentioned before, real estate title analysis has been made in various stages to achieve accuracy and safety of business.

2) Characteristics of Real Estate Title Analysis

Characteristics of real estate title analysis are non-power acts, post confirmation acts, scientific & technical, social & public acts, etc.²²⁾ As real estate title analysis is a non-power act, the subject of title

analysis will be needed in specialization.²³⁾

Next, title analysis is a post confirmation act, which grasps the meaning of the existing right.²⁴⁾ Like the recording system of the United States, it is important to grasp the chain of real estate registration machinery to the present through a recording system. Title analysis is a kind of work to catch a status of historic records about the chain of title.²⁵⁾

Land use plans have always variable characteristics.²⁶⁾ In terms of this aspect, title analysis includes the estimate act.

In addition, real estate title analysis has a function to help other real estate services. Namely, it is an assistant act.²⁷⁾

III. Classification of Real Estate Title Analysis

1. Types of Real Estate Title Analysis

Classification by a broad sense or

19) Alvin L. Arnold & Charles H. Wurtgebach, *Modern Real Estate*, Warren, Gorham & Lament, Inc., N.Y., 1980, p.260.

20) Marianne M. Jennings, *op.cit.*, pp.362~74.

21) Kang, Hae-Kyu, et al, *Real Estate Brokerage*, Seoul, Hyungseol Publishing, 2001, p.266.

22) Kim, Young-Jin, *ibid*, Lee Chang-Suck, *ibid*, pp.446~7.

23) Kim, Yong-Min & Lee, Chang-Suck, *ibid*, p.102.

24) *ibid*, p.103.

25) George J. Siedel & Jenis K. Cheegem, *op.cit.*, p.269.

26) Marianne M. Jennings, *op.cit.*, pp.728~30.

27) This is a characteristic of real estate title analysis. So to speak, it is another individual character together with non-power act, post confirmation act.

narrow sense of legal rights is as follows:²⁸⁾

First, title analysis in a narrow sense is made by real estate registration law. To begin with, it should be confirmed whether permission or authorization by the authorities concerned is needed in disposition of real estate. Next, it should understand Article 187 of the Korean Civil Act; the acquisition of real rights over immovables through inheritance, expropriation, judgment, auction, and others stipulated in provisions of law shall not require registration; Provided, that the immovable shall not be disposed of unless it has been registered.²⁹⁾

Second, title analysis in a broad sense is to analyze regulations on public law.

Third, title analysis in a wide area is to analyze fact finding, legal superficies, possessory lien, etc.

If the scope or contents of title analysis extends or penetrates, it will come to consciousness of value.³⁰⁾

2. Types of Real Estate Transaction Accident

In the past real estate transaction accident indicated that there is a certain defection in real property itself.³¹⁾ Today, it is understood in a broad sense. Namely, it is expressed in complex

concepts such as law, economics, technical, and distribution.³²⁾

Unlawful transaction accident enumerates impossibility of right acquisition, impossibility of undertaking, impossibility of use, acquisition of improper building, heavy bearing tax, etc.³³⁾

In real estate sale, etc., it is said that economic value of real estate is unreasonably reflected. For example, inappropriate rent is charged.

There are technical, physical, functional, defects such as solidity of building, bad design, and bad facility, etc.

In a real estate transaction, the accident occurred due to unreasonable distribution. If the distribution function is efficient, a new supply of housing and housing policy influence will emerge.³⁴⁾

IV. Tasks and Activation of Real Estate Title Analysis Activities

1. Need of Real Estate Title Analysis Activities

The reason that real estate title analysis is needed is the prevention of real estate transaction accident.³⁵⁾ As

28) Kim, Youn-Jin, *ibid*, Lee, Chang-Suck, *ibid*, and Bang, Kyung-Sik, pp.404~405.

29) Kwak, Yun-Jik, *Real Estate Registration Law*, Seoul, Pakyongsa Publishing, 2001, pp.90~94.

30) Yun, Il-Sik, *Real Estate Title Analysis*, Seoul, Gigongsa Publishing, 1986, p.267.

31) Kim, Cheon-Kyung, "A Study on Real Estate Title Analysis", *Treatis*, Kangnam Univ. 1987, pp.451~452.

32) Yun, Il-Sik, "Real Estate Title Analysis", *Kangnam Univ. Treatise*, 1987, pp.451~452.

33) Yu, Hae-Young, "A Study on Prevention and Remedy Measure of Real Estate Transaction Accident", *Konkuk Univ. MA Treatise*, 1986, p.13.

34) Kim, Young-Jin, *Real Estate*, Tokyo, Tokyo Law Economics Publishing, 1979, p.189.

real estate transaction accidents have often occurred, social shock seems to be concealed a continuous accident.³⁶⁾

Therefore, to prevent real estate related accidents and to activate the national economy, it is indispensable to establish a certified title examiner like certified public appraisers, licenced real estate agents, housing manager, etc. which are established by real estate appraisal business, real estate brokerage business, and real estate management business, etc.

〈Table 5〉 Status of Transaction accident Case (Unit : case number)

	Total	Registration
2009	11,565,289	11,109,569
2010	11,189,737	10,643,687
2011	12,008,021	11,465,965
2012	11,702,199	11,181,668

source : Supreme Court of Korea Stats, 2012, p.591.

Real estate title analysis system should execute as proxy for confirmation activity for prevention of real estate transaction accident related to various regulatory measures of real estate title analysis. The need of real estate title analysis is to protect the property of citizens through prevention of real estate transaction accidents.

2. Operation of Real Estate Title Analysis System and Real Estate Title Analysis Business

1) Operation of Real Estate Title Analysis Business

The institutions in charge of real estate title analysis can be classified as public institutions and accredited institutions. Public institutions may cooperate with government or local government because the real estate related public register ledger is in charge of government or local government. In case of accredited institutions, real estate title analysis system should be introduced and State's surveillance should be received.³⁷⁾

Methods of surveys can be classified as voluntary surveys and necessary surveys. The case of public interest should have a necessary survey. Private interest surveys also need desirably minimum necessary surveys.³⁸⁾

2) Real Estate Title Analysis business

In doing real estate title business in Korea, only experts can analyze structurely various interests concerned with speed, accuracy, and safety, because various interests on the corresponding real property regarding to public law, private law, and technical aspects are complex.³⁹⁾

35) Geum, Byung-Dae, "A Study on Real Estate Legal Theory", *Study Treatise*, Konkuk Univ. Public Administration, 1976, p.390.

36) Kim, Yong-Min, "A Study on Analysis of Structure of Land Price Change", Konkuk Univ. Treates 1982, p.5.

37) In Korea like the United States, an accredited institution that has a qualification requirement can do agent business and it will be efficient to contrive voluntary development.

38) Ibid, p.63.

Generally, real estate title business can be classified as title analysis agent business and title insurance business. Real estate title examiner is a title analysis expert that has qualifications for doing research activities in a real estate title analysis institution.

A real estate title examiner as a liberal profession like certified public appraiser or licenced real estate agent, etc., may open the title business office individually or jointly.

When a real estate title examiner does not research earnestly, he/she has to pay for damage of infringement of buyer. Now, there is no accredited institution which is specialized in real estate title business.

3. Role of Real Estate Title Analysis Expert

A real estate title analysis expert should carry out the following roles. First, he/she should have legal knowledge to read and analyze necessary materials collected such as real estate register ledger, etc.⁴⁰⁾ Second, he/she should have the ability of economic analysis to adjust and mediate conflicts brought out in the process of the real estate transaction price.⁴¹⁾ Third, he/she should have the ability of technical aspect to analyze physical defects of the corresponding real property through a

fact-finding field visit. Fourth, he/she should have the ability and attitude to analyze a transaction accident and take a counter measure in terms of legal, economic, and technical aspects.

V. Conclusion

As examined before, it is no exaggeration to say that real estate title analysis activities play an important role in an area. Meanwhile, diverse theoretical approaches on the real title analysis have been tried, but new debate on theoretical system is also insufficient.

Real estate transactions should be transferred and acquired in the state of true right always without defect in view of right relations because the whole real rights including ownership are traded through transferable succession or establishing succession.

As social and economic growth have emerged together with industrialization and urbanization, high quality expert service is required in real estate activities. In the real estate market, as a means of obtainment of transaction safety, real estate title analysis centered on the real estate buyer prevails. In addition, even though the

39) Lee, Beom-Gwan & Jeon, Jeong -Sook, "A Study on Settlement Direction of Real Estate Title Analysis Business," Daehan Real Estate Study Association, Treatise, 2002, p.53.

40) Han, Zong-Hie, "A Case Study on the Unification of Real Estate Registration", *Korea Real Estate Academy Review*, 2012, 5, vol. 49. pp.77~78.

41) Noh, Young-Hak & Kim, Gong-Ho, "A Study on the Impact on Real Estate Policy of Housing Prices", *Korea Real Estate Academy Review*, 2012, 8, vol. 50. pp.109~110.

real estate title analysis business has a good environment to develop, the real estate title analysis system has no conditions to root because the real estate registration ledger in Korea lags behind due to a loose registration system. Accordingly, the theoretical approach on real estate title analysis indispensably followed by real estate ownership activity and transaction activity has been tested again. This is a search of task for the more developing theoretical system and institution.

As it shows, real estate title analysis activity decreases the room of dispute in real estate activity and makes a contribution to property protection of citizens and establishment of real estate transaction orders through solving the problem as quickly as possible. For this purpose, it is an

urgent necessity to introduce a certified title examiner who majored in real estate related subjects and real estate related laws and passed the course examination. Recently, based on Licence Basic Law in 1997, real estate related licences are established in several civil institutions.⁴²⁾

Especially, evolvement of real estate activity is the base of general economic activity, and makes a contribution to safe acquirement holding and transfer of private rights to individuals So it is very important. Real estate title analysis not only contributes safety of real estate transaction and development of national economy, but also prevents various transaction accidents. Futhermore, real estate title analysis is a necessary element in the course of real estate transaction procedure and contribution of improvement of relations between real estate and human beings.

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42) The first Korea Real estate title analysis society was established on September 27, 2002. The others are Daehan Real Estate Title Analysis Association, Korea Real Estate Title analysis association, Korea Knowledge Foundation, etc. They are producing Title Examiner based on Licence Basic Law in 1997.

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