土地、業權與財產保障

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早期的批地與租契

金融中心有賴穩固的財產權。土地是最重要的抵押品形式。按揭的價值，取決於其所依據的業權。新加坡的土地法由不確定的起點緩慢發展而來。從開埠至19世紀中葉，土地批出的方式雜亂無章：所發出的租契年期各異，由999年、99年、60年以至15年不等。[1]1858年之前，批地事宜由英國東印度公司掌控，此後業權最初源自英國王室。[2]

早期殖民地的999年租契至今仍然存在。這是新加坡物業市場的一大特色，市場視之等同永久業權。這些租契說明了英國東印度公司土地政策的深遠影響。然而，五花八門的土地權益亦造成混亂，後來的政府不得不加以解決。

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契據登記

在19世紀大部分時間，新加坡既無妥善的登記制度，亦無妥善的土地測量，導致地界糾紛普遍，政府亦蒙受收入損失。[3]1880年，總督Sir Frederick Weld建議採用在南澳洲發展出來的托倫斯制度（Torrens system）。其後於1886年制定的法例，包括《契據登記條例》（1886年第XIII號），建立了契據登記制度。[4]

契據登記記錄轉讓土地的文書，並給予已登記文書優先權，但並不保證業權。買家或貸款人仍須審查業權鏈，以確保每次轉讓均屬有效。由於這套制度只減少而未能消除不確定性，業權審查在其後一個世紀仍是新加坡產業轉易律師的重要工作。

托倫斯制度

托倫斯制度由國家備存業權登記冊，並為其中記錄的業權提供保證。這套制度最終由《1956年土地業權條例》引入。由首次建議至制度實施，整個過程歷時超過75年，比新加坡歷史上任何其他法律改革都要長。[5]一個法律在其他方面均屬英國法的殖民地採用澳洲模式，顯示殖民地法律秩序會在帝國各地借鑒更佳的解決方案。

在托倫斯制度下，登記冊具決定性效力，買家或貸款人可依賴登記冊，而無須調查業權的歷史。這套制度降低了物業交易的成本和風險，令土地成為更可靠的抵押品。《土地業權法》（Land Titles Act）是1956年條例的後繼法例，今日規管新加坡的土地登記。將土地由舊有契據制度轉換至登記冊的工作，在其後數十年間完成。[6]

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財產權與金融中心

土地業權的歷史說明了一個更廣泛的道理。金融中心的法律基礎需要長時間奠定，其中許多對一般觀察者而言並不顯眼。今日以新加坡物業作抵押貸款的銀行，依賴的是一份由1956年法例設立的登記冊，其源頭可追溯至1880年的一項建議；它依賴的租契，其條款早在殖民地最初數十年已經訂定。這些制度的可靠性被視為理所當然，但其實是經過一個世紀的改革才得以實現。

本章探討的其他法律制度亦是如此。1826年特許狀設立的法院、藉此繼受的普通法，以及透過1878年條例引入的商業法，構成了殖民地時代銀行、保險公司和代理行（agency houses）賴以經營的法律基礎設施。20及21世紀的金融中心繼承並發展了這套基礎設施。

註釋

1. B.L. Chua, “Land Registration in Singapore and the Federation of Malaya”, *University of Malaya Law Review*, vol. 1, no. 2, 1959年12月：“Leases for a variety of terms ranging from 999 years, through 99 years and 60 years to 15 years were issued.” ↩
2. B.L. Chua, “Land Registration in Singapore and the Federation of Malaya”, *University of Malaya Law Review*, vol. 1, no. 2, 1959年12月：1858年之前由英國東印度公司掌控批地事宜；此後“title to land was derived originally from the British Crown”。 ↩
3. B.L. Chua, “Land Registration in Singapore and the Federation of Malaya”, *University of Malaya Law Review*, vol. 1, no. 2, 1959年12月，論缺乏“proper system of registration”及“proper survey of the lands”。 ↩
4. B.L. Chua, “Land Registration in Singapore and the Federation of Malaya”, *University of Malaya Law Review*, vol. 1, no. 2, 1959年12月：Weld於1880年建議採用托倫斯制度；Registration of Deeds Ordinance (No. XIII of 1886)設立了契據登記處。 ↩

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5. Alvin W.L. See, “The Torrens System in Singapore: 75 Years from Conception to Commencement”, *American Journal of Legal History*, vol. 62, no. 1, 2022，第66–87頁（摘要：“the entire process took over 75 years, far longer than any other law reform the country has experienced”）。 ↩
6. 關於Land Titles Act (Cap 157)及將未登記土地轉換至托倫斯登記冊，參見*Singapore Academy of Law Journal*有關托倫斯制度的文章，包括“Whither Torrens Title in Singapore?” (2010) 22 SAcLJ 9。 ↩

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