土地、地契与财产权保障

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早期的土地授予与租约

金融中心有赖于有保障的财产权。土地是最重要的担保品。一项抵押的价值，取决于其所依托的地契。新加坡的土地法从不确定的起点缓慢发展而来。从开埠到19世纪中叶，土地授予杂乱无章：所签发的租约期限各异，从999年、99年、60年到15年不等。[1]1858年之前，土地授予由东印度公司掌控；此后，地权最初源自英国王室。[2]

早期殖民地签发的999年租约一直延续至今。它们是新加坡房地产市场的一个特色，在市场上被视同永久地契。这显示了东印度公司土地政策影响之深远。不过，土地保有方式五花八门，也造成了混乱，后来的历届政府不得不加以理顺。

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契据登记

19世纪的大部分时间里，新加坡既没有完善的登记制度，也没有完善的土地测量，导致边界纠纷普遍，国家税收也蒙受损失。[3]1880年，总督弗雷德里克·韦尔德爵士（Sir Frederick Weld）建议采用在南澳大利亚发展起来的托伦斯制度（Torrens system）。随后于1886年出台的立法，包括《契据登记条例》（1886年第13号），建立了契据登记制度。[4]

契据登记记录土地转让所依据的文件，并赋予已登记文件优先权，但并不保证地权。买方或贷款人仍须审查地权链条，以确认每一次转让均属有效。由于这一制度只是减少而非消除了不确定性，地权调查在此后一个世纪里仍是新加坡产权转让律师工作的重要组成部分。

托伦斯制度

托伦斯制度由国家维护地权登记册，并对登记在册的地权提供保证。这一制度最终由1956年《土地所有权条例》引入。从最初提议到制度正式实施，历时七十五年以上，比新加坡历史上任何其他法律改革都要漫长。[5]在一个法律总体沿袭英国的殖民地采用澳大利亚模式，表明殖民地法律秩序在发现更好的解决方案时，会向整个帝国范围内取经。

在托伦斯制度下，登记册具有终局效力，买方或贷款人可以依赖登记册，而无须调查地权的历史。这一制度降低了房地产交易的成本和风险，使土地成为更可靠的担保品。作为1956年条例的继承者，《土地所有权法》（Land Titles Act）如今规范着新加坡的土地登记。此后数十年间，土地逐步从旧的契据制度转入登记册。[6]

财产权与金融中心

土地所有权的历史说明了一个更普遍的道理。金融中心的法律基础是经过漫长岁月奠定的，其中许多对一般观察者而言并不显眼。如今以新加坡房地产为抵押发放贷款的银行，所依赖的是依据1956年一部法律建立的登记册，而

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这部法律可追溯至1880年的一项建议；它所依赖的租约，其期限则是在殖民地最初几十年确定的。这些制度的可靠性被视为理所当然，但它是经过一个世纪的改革才得以实现的。

本章讨论的其他法律制度同样如此。1826年宪章设立的法院、借由宪章继受的普通法，以及通过1878年条例引入的商法，构成了殖民时期银行、保险公司和代理行（agency houses）开展业务的法律基础设施。20世纪和21世纪的金融中心继承并发展了这一基础设施。

注释

1. B.L. Chua，“Land Registration in Singapore and the Federation of Malaya”，*University of Malaya Law Review*，第1卷第2期，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*，第1卷第2期，1959年12月：1858年之前由东印度公司掌控土地授予；此后“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*，第1卷第2期，1959年12月，论缺乏“proper system of registration”和“proper survey of the lands”。 ↩
4. B.L. Chua，“Land Registration in Singapore and the Federation of Malaya”，*University of Malaya Law Review*，第1卷第2期，1959年12月：韦尔德于1880年建议采用托伦斯制度；Registration of Deeds Ordinance (No. XIII of 1886)设立了契据登记处。 ↩
5. Alvin W.L. See，“The Torrens System in Singapore: 75 Years from Conception to Commencement”，*American Journal of Legal History*，第62卷第1期，2022年，第66–87页（摘要：“the entire process took over 75 years, far longer than any other law reform the country has experienced”）。 ↩

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6. 关于Land Titles Act (Cap 157)以及未登记土地转入托伦斯登记册的过程，参见*Singapore Academy of Law Journal*中有关托伦斯制度的文章，包括"Whither Torrens Title in Singapore?" (2010) 22 SAcLJ 9。 ↩

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