

Podcast “Amsterdamse Handelsgeest” (Amsterdam trading culture) - From the Golden Age to Now

Episode 2: Heritage of long leasehold in Amsterdam

How did the ground lease system in Amsterdam come into being and what impact has it had on the city and its development? And is the system in its current form ready for the future? You'll hear about it in this second episode of “Amsterdamse Handelsgeest: From the Golden Age to Now”. A podcast by Lexence Lawyers and Notaries in honour of Amsterdam's 750th anniversary. My name is Hidde Bruinsma, I am a lawyer and legal podcast maker, and with me at the table: Paul Nelisse, director at Colliers, specialising in real estate and with a PhD in urban leasehold. And Arief van Rhee, notary partner at Lexence, former ring chairman of the Amsterdam notaries and specialising in real estate law.

Hidde Bruinsma: If you buy a house in Amsterdam, the land is usually not your property. You pay annual ground rent to the municipality for it. Paul Nelisse, can you explain what exactly erfpacht means?

Paul Nelisse: Yes, ground lease is a limited right in rem that is very close to ownership. As a leaseholder, you can use the land as if it were yours, but ownership remains with the bare owner. In Amsterdam, this is usually the municipality. The right can take different forms: temporary, continuous or perpetual. Temporary ground lease even resembles rent in some ways.

Hidde Bruinsma: Urban leasehold is often mentioned. Can you explain that?

Paul Nelisse: That is mainly about application in cities. A key feature is its mandatory nature, as it has been in place in Amsterdam since 1896. It was introduced at the time by alderman Willem Treub to combat speculation with building land and give the city more control over its spatial development. In the process, proceeds were used for communal facilities.

Hidde Bruinsma: Arief van Rhee, what goals did the municipality have with this system?

Arief van Rhee: In the late 19th century, there was no spatial planning as we know it today. Amsterdam saw poor housing at the time and wanted to create better housing through private law frameworks. They also wanted to keep a grip on urban expansion, which was going fast at the time. In addition, the idea was that the city was made by everyone and therefore revenues should benefit everyone, not just landowners.

Hidde Bruinsma: In 1915, Amsterdam switched from temporary to perpetual ground rent. What changed then, Paul?

Paul Nelisse: The temporary system created uncertainty for banks because the right could expire completely. That made financing difficult for builders. With perpetual ground rent, the right continues but is divided into periods of, say, 50 or 75 years. At the end of such a period, the canon can be revised. This gave banks more security and got construction projects back on track.

Hidde Bruinsma: There was uproar in the 1990s over revisions to that canon, right?

Arief van Rhee: True. Many older ground rents were not indexed for inflation. After 50 or 75 years, people faced huge increases in the canon. This led to great unpredictability and made banks reluctant to finance houses with expiring ground rents.

Hidde Bruinsma: Was this a trigger for the move to perpetual leasehold in 2017?

Arief van Rhee: Certainly. Perpetual ground rent offers much more predictability. At inception, all terms and conditions are fixed and do not change, except for indexation to inflation. This system is closer to ownership, which is more attractive to both residents and banks.

Hidde Bruinsma: Paul, why was there so much criticism of this new system anyway?

Paul Nelisse: Switching to perpetual ground rent is costly. The municipality calculates the land value based on neighbourhood street ratios, a percentage of the WOZ value. In some neighbourhoods, such as the South of Amsterdam, this can amount to as much as 50% of the house value. For many people, this is a hefty financial threshold.

Hidde Bruinsma: How do you see the leasehold system in the future, Arief?

Arief van Rhee: I think ground lease remains a useful instrument, especially for business estates and housing associations. But I also see room for more selective use, for instance by offering property in stable neighbourhoods like in the South of Amsterdam. It could increase the attractiveness of the city.

Hidde Bruinsma: Finally, Paul, did people who switched to perpetual leasehold in 2017 make a good choice?

Paul Nelisse: Absolutely. With rising land prices, it has proved to be a good investment. People who switched then now have clarity and benefit from favourable terms that have since been scaled down.

Hidde Bruinsma: Thank you, Paul and Arief, for this insight into the history and future of leasehold in Amsterdam. This concludes this episode of "Amsterdamse Handelsgest". Until next time!