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How Title Insurance Revitalized the Italian Housing Market

Title insurance is a type of policy that protects buyers and lenders from legal risks associated with real estate, particularly in contexts with less reliable cadastral systems. First widely used in the United States, it was later adopted in Europe to address issues related to donated properties or properties with uncertain provenance. In Italy, a policy called *Donazione Sicura* (Secure Donation) helped revitalize the market for donated properties by guaranteeing purchases and sales and facilitating access to credit. Ten years after the first title policy was issued in Italy, donated properties are circulating freely in the market and generating substantial economic value.

REAL ESTATE//FINANCIAL INTERMEDIARIES//REAL ESTATE MARKET//TITLE INSURANCE

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Title insurance is a tool designed to protect real estate buyers and mortgage providers from legal risks associated with the transfer of titles, rights of possession, and financing for the purchase of real estate. Such policies also address a variety of additional issues that might otherwise obstruct, delay, or even halt the closing of a property transaction. Depending on applicable laws, markets may require title insurance to cover risks not captured in due diligence, in addition to known legal risks. (For instance, if the property in question was the subject of a foreclosure in the past, specific coverage for that risk should be required.)
This type of policy originated in the United States where, unlike many European countries, there is no sophisticated, reliable cadastral registration system nor the figure of the notary, as in the Italian system. Although the laws vary considerably from

state to state, generally speaking, in the US the absence of a European-style cadastral system means that the title is often guaranteed by the seller's representations, at least in part. So, it's not surprising that title insurance was circulating in the US market as early as the mid-1950s. Today, such policies are indispensable when it comes to buying and selling real estate and granting mortgages, so much so that the databases of the major American insurance companies in the industry are more comprehensive than state or county records.

Title insurance first came to the Old Continent to meet the needs of Eastern European countries (primarily Poland and Romania) after the collapse of the Soviet bloc. In the 1990s, in fact, many assets confiscated by communist governments in previous decades were put back on the market, often with incomplete records and uncertain provenance. In many cases, state institutions had difficulty selling these assets because buyers were concerned about possible claims by the heirs of the original owners. In other cases, the owners who regained possession of their properties were unable to liquidate them because of gaps in the official records. It was in this context that title insurance began to proliferate, eventually spreading to Western Europe (France, Germany, Italy), with the aim of insuring specific risks identified by the due diligence of notaries and lawyers. Not surprisingly, the first requests for title insurance in Europe came from foreign investors, particularly from the US, eager to have the same insurance coverage abroad as they would in domestic real estate transactions.

In recent years, the demands of the retail market have also contributed to the increasing use of title policies, even in the case of purchases and sales between individuals. An example of this trend is the experience of donation policies in Italy, which illustrates the relevance of these insurance solutions. But surprisingly, there is a bibliographic gap in the specialist literature on the theme. The partnership between SDA Bocconi and Aon, a leading consulting firm for risk management and insurance programs, aims to fill this gap.

THE MARKET FOR DONATED REAL ESTATE

In 2014, recognizing the needs of real estate market stakeholders such as banks, notaries, brokers, and investors, Aon launched Lloyd's *Donazione Sicura* policy in Italy, the first insurance coverage designed to facilitate the buying and selling of donated real estate. Ten years on, it is clear that this title insurance has solved a social problem that had not been previously addressed to the satisfaction of all parties involved. If we want to study this phenomenon in depth, we need to quantify its dimensions.

In today's social context, older people are living longer, on average, and young people are having a harder time "launching" (i.e. becoming autonomous). As a result, the transfer of wealth from one generation to the next has become a crucial node for Italian families. Gifting property, quite customary in Italy, is one of the most common forms of wealth transfer.

While Italians have historically viewed brick and mortar as a safe investment, the concentration of multiple properties in the name of one person carries significant tax disadvantages (e.g., property tax on second homes). For these and other reasons that warrant further study, donated assets are an important part of the Italian real estate market.

According to data published by the National Council of Notaries,[1] the number of real estate donations climbed steadily over the past decade until 2020, when there was a downturn due to the Covid-19 pandemic, and then rose again in 2021. In 2022 and 2023, this figure decreased slightly compared to previous years but remained above pre-pandemic levels.

This trend has opened up a new horizon for the real estate market. In fact, the protection provided by insurance products has eliminated many obstacles related to selling donated properties, freeing up a valuable segment of the Italian real estate market.

1. Notary Statistics Data: 2016, 2017, 2018, 2019, 2020, 2021, 2022.

THE NEW GOLD STANDARD IN THE HOUSING MARKET

The purchase and sale of donated real estate has historically been a complicated, uncertain undertaking, made no less so by half-hearted regulatory interventions and an attempt to engage in practices that are not always unanimously considered appropriate (such as the termination of the donation). In this context, insurance programs have quickly been established as the gold standard of the market, guaranteeing objective benefits to all parties involved in transactions of donated real estate: from donees to buyers, from legitimate heirs to banking institutions that agree to grant loans.

Today, this insurance solution is universally recognized as the best possible option thanks to the comprehensive guarantees it offers, as well as the relative speed and cost effectiveness. Title insurance policies provide buyers with protection in the event that a forced heir takes legal action against a third-party purchaser (e.g. pursuant to Article 563 of the Civil Code, "Action against successors of donees subject to reduction"). To clarify, a forced heir is a family member of the deceased (spouse or child) who cannot legally be disowned, and therefore has an indefeasible right to inherit, according to Italian inheritance law. This person could potentially sue the buyer to obtain the return of the property or monetary compensation for the contested share of the property value. In this case, the insurer would pay the policy holder (the buyer) the amount demanded by the forced heir. The cost of this coverage consists of a small premium (less than €1,000 for the purchase of a property worth €300,000) in the form of a one-time payment. The guarantee is valid for an indefinite period of time, i.e. as long as any forced heir (whether known, unknown or contingent) has the right to take action against the property purchaser.

This policy allows the buyer to retain the right of ownership of the property and, consequently, the bank to secure the loan to guarantee the mortgage (if there is one). As a highly innovative solution, in recent years title insurance has contributed decisively to the increase in real estate transactions involving donated property, finally eliminating inherent risks and uncertainties, without in any way affecting the rights of the heirs, as sanctioned in the Italian Civil Code.

THE PURCHASE AND SALE OF DONATED REAL ESTATE: THE NUMBERS

Now we'll look at a series of statistics that show how the growth and consolidation of insurance solutions have led to the development of the donated property real estate segment. If we examine the data provided by the Real Estate Market Observatory of the Italian Revenue Agency (Italy's IRS) and the National Council of Notaries and compare these numbers with the information on the insurance sector provided by Aon, we find that there are no structural barriers to the purchase and sale of donated real estate. More importantly, insurance has served as a powerful driver of real estate deals.

The stock of real estate and the number of sales and purchases in Italy

At the quantitative level, the stock of Italian real estate has followed a trend of moderate but steady growth in recent years. Here we refer to the cadastral categories most frequently bought and sold between private individuals (specifically, category A, which includes private dwellings and offices, and category C, private commercial or artisanal activities). As evidenced by data from the Real Estate Market Observatory (or OMI in Italian),[2] this stock increased by about two million over the period 2016-2023. Specifically, as reported in Table 1, the total number of dwellings rose from about 62.5 million in 2016 to just over 65 million in 2022 and then slightly below 66 million in 2023 (Ministry of Economy and Finance, 2023).

2. *Osservatorio del Mercato Immobiliare* (OMI) data - Cadastral statistics 2016, 2017, 2018, 2019, 2020, 2021, 2022

Real estate purchases and sales

Focusing on real estate transactions,[3] clearly these data are highly volatile and closely linked to economic contingencies. In times of crisis, for example, there is a decrease in house purchases, but not in the total stock of real estate. This dynamic is also confirmed in the 2022-2023 biennium, which was marked by geopolitical conflicts, the return of inflation, rising mortgage rates and higher energy prices. In 2023, the number of properties bought and sold was 709,591. Compared to 2022, this is 9.7% less. Therefore, as we already mentioned, there was a reversal of the growth trend in the volume of transactions, which had been steady since 2014 and was previously interrupted only by the sharp decline in 2020 (-7.7%) induced by the pandemic crisis.

Some data on real estate donations in Italy

Each year the National Council of Notaries publishes a study of notarial statistics,[4] which we can delve into to explore the subject of donations. Looking at the period between 2016 and 2022, this report shows that an average of 254,279 deeds of donation were concluded each year in Italy. As we can see in Table 1, the annual number of donations appears to be constant over the time frame in question, with the exception of 2020, when there is a drop due to the effects of the Covid-19 emergency, followed by a great leap forward in 2021, above the pre-pandemic level.

Looking at the types of donations made between 2016 and 2022,[5] we note that, on average, 75% of donations involved real estate (housing and buildings), with an average annual value of around €142,000. By comparison, the average value of donations of personal property over the same period is €47,574.

An additional element to consider in this preliminary analysis is the statute of limitations granted to the beneficiaries, in other words, how long they have to take action if a donation has violated their rights. By cross-referencing and weighing data on the average age of donors at the time of donation with the remaining life expectancy, we estimate that the average statute of limitations for the rights of legitimate heirs is around 21 years.

TABLE 1 STOCK OF ITALIAN REAL ESTATE AND NUMBER OF ANNUAL PURCHASES AND SALES (2014-2023)

Year	Stock of Italian real estate	Housing purchases and sales	Number of individual donors of personal property and real estate	Number of individual of real estate	Estimated number of title insurance policies
2014	62,011,709	421,336	-	-	367
2015	62,279,825	448,893	-	-	2,222
2016	62,552,568	533,741	248,403	134,412	5,556
2017	62,966,899	542,480	241,697	132,366	12,222
2018	63,282,284	578,647	249,429	136,905	16,667
2019	63,571,890	603,541	256,451	143,052	18,222
2020	63,912,350	557,926	224,196	125,255	17,778
2021	64,448,013	748,523	284,972	163,513	22,222
2022	65,010,242	748,486	274,802	157,952	22,822
2023	66,000,000	709,591	-	-	21,100
Average 2016-2023	**64,005,855**	**589,316**	**254,279**	**141,922**	

3. *Osservatorio del Mercato Immobiliare* (OMI) Real Estate Report - Residential Sector 2017, 2018, 2019, 2020, 2021, 2022, 2023.
4. Notary Statistics Data: 2016, 2017, 2018, 2019, 2020, 2021, 2022.
3. Notary Statistical Data Portal 2016- 2022.

Relationship between stock, donated property and insurance

First, we need to quantify the stock of donated property in Italy. As reported in Table 1, the number of donations per year is almost constant and does not show any significant variation over time. This means we can make a solid estimate by multiplying the approximately 142,000 residential properties donated on average each year by the average time it takes to establish the rights of the heirs (21 years). From this calculation, we estimate that there are just under 3 million donated properties in the country. If this figure is parameterized in relation to the total number of residential properties in Italy (about 65 million), we find that about 4.6% of all real estate consists of donated properties.

This percentage can also be used to assess the weight of donated properties in real estate purchases and sales. According to OMI data (Table 1), an average of about 616,000 properties are bought and sold each year. Applying the ratio of 4.6% to the average number of annual real estate transactions, it's possible to project that if donated properties were actually free to circulate on the market, approximately 28,300 deals involving such assets could be expected each year. (This calculation is based on consolidated data for 2022.)

Another element in our analysis emerges from the number of insurance policies taken out annually to protect buyers of donated properties. Table 2 shows that, since 2014, the insurance institution has become firmly established on the Italian market, and its popularity has grown exponentially, with over 22,800 policies in 2022. This growth, and the consequent consolidation of title insurance, has been instrumental in developing the segment of the market that includes donated properties. Given that each policy can cover multiple properties, it is plausible to assume that there is an almost direct correlation between the number of policies issued and the number of donated properties bought and sold annually. Cross-referencing the data, it appears that the approximately 22,800 policies correspond almost perfectly to the 28,300 annual transactions calculated above, and account for nearly the entirety of the market.

TABLE 2 INSURANCE POLICIES TAKEN OUT PER YEAR (2014-2023)

Year	Total policies
2014	367
2015	2,222
2016	5,556
2017	12,222
2018	16,667
2019	18,222
2020	17,778
2021	22,222
2022	22,822
2023	21,100

BANKS THAT USE INSURANCE POLICIES

The usefulness of title insurance is also corroborated by the number of banking institutions that accept this type of policy as a means of guaranteeing a mortgage for the purchase of a donated property. In the last year alone, insurance policies have been utilized by almost all credit institutions to grant mortgages.

TAXATION

Calculating the exact fiscal scope of the market for donated real estate that has opened up is extremely complex, as there are many stakeholders involved. As a rough approximation, for the sole purpose of providing an order of magnitude, we can assert the following:

- Just over 66,000 donation contracts have been brokered between 2021 to 2023.
- With an average property price in Italy of €140,000, the total value of donated properties

bought and sold with title insurance policies between 2021 to 2023 was €9.24 billion.

- Of these transactions, 60% were made with a mortgage loan. Assuming an average loan-to-value (LTV) of 80%, banks disbursed at least €4.4 billion in loans from 2021 to 2023.
- The average premium for a donation policy is around €1,000. With a tax rate of 21.25%, insurers alone paid more than €14 million in taxes to the State over the three-year period. Added to this sum is about €6 million paid by insurance brokers in corporate income tax.
- Considering that €9.24 billion worth of assets were bought and sold through real estate agents in the three-year period, and assuming an average commission of 4%, we estimate that nearly €37 million in real estate agent commissions were taxable.
- Added to this are notary fees, which could easily exceed €300 million, plus the related taxes paid by notaries on these fees.

WHAT ARE THE OUTSTANDING ISSUES?

Approximately 81% of bequests are now made with insurance policies, which have become the most popular solution among practitioners. This instrument has been widely accepted by the market because it responds in a flexible and cost-effective way to the needs of all parties involved (sellers, purchasers, legitimate heirs, and third-party beneficiaries).

However, there is still the unknown of the approximately 4,500 annual transactions estimated in the previous forecast that are not covered by insurance policies.

Should we conclude that there is a problem of non-marketability for this real estate segment? Our analysis suggests the answer is no. In fact, assuming that insurance companies would like to extend their coverage to 100% of the stock, there are alternatives to avoiding (or living with) the risk associated with the purchase of a donated property, including:

- Terminating the gift by mutual dissent: This procedure, which cancels out the gift, is available but rarely used due to the lack of established legal precedent and the often significantly higher cost compared to insurance.
- Taking out a second mortgage on another property: Although this is a practical solution, it can lead to potential economic losses for the third-party buyer, which makes this option less attractive.
- Waiving protection in transactions between individuals without a mortgage: In some cases, with a purchase between individuals in which the buyer doesn't need financing, the parties may decide not to take any protective measures.
- Lack of awareness of the benefits of insurance: Part of the market may not be fully aware of the possibilities offered by the insurance instrument, which limits its widespread use.

TABLE 3 SAMPLE OF BANKS PROVIDING MORTGAGES FOR THE PURCHASE OF DONATED PROPERTY SECURED BY A DONATION POLICY

Intesa San Paolo	Bcc Rome	Lazio Center Bank	Bcc Imolese e Ravvenate
Unicredit	Ubi Bank	Credito Valtellinese Bank	Mediolanum Bank
Bper Bank	Bank of Caraglio	Bank of Cambiano	Banca Veronese Banca Pop. di Sondrio
Monte dei Paschi di Siena	Widiba Bank	Banca Popolare del Frusinate	Passadore Bank
National Labor Bank	Banca Alta Toscana	Medioinsurance	Prealpi Bank Sabiagio
Banca Popolare di Bari Banco Pop.	Credit Agricole	Cassa Padana Bank Maritime Alps	Bank Pop. St. Angelo
Apulia and Basilicata	Centroveneto Bassano Bank	Volksbank	Carige
Banco Bpm - Webank Credem	Piedmont Bank	Bank Pop. Ragusa	Bank of Sardinia

In particular with regard to this last point, it could be useful to promote specific actions to disseminate information and raise awareness of the advantages of title insurance in providing guarantees to the parties involved in buying and selling a donated property.

FINAL CONSIDERATIONS

This case is an emblematic example of how private entrepreneurship can provide effective solutions to social problems, helping to revitalize an otherwise stagnant economic sector. Moreover, legislative caution in this sphere is entirely understandable, as intervention in the current inheritance system could lead to serious imbalances in the fabric of society. The institution of forced heirship is a foundational norm of Italian inheritance law, which serves to preserve and transfer family wealth, preventing it from being dispersed. In this context, title insurance takes on an even greater value: on the one hand, it allows the free circulation of bequests on the market for a negligible fee; on the other hand, it gives much-needed flexibility to a regulatory framework that protects and preserves family wealth.

Ten years after the first title insurance policy was issued in Italy, donated property is now circulating unencumbered on the market and generating wealth. Moreover, thanks to this insurance solution, the rights of legitimate owners remain intact. The latter is perhaps the most interesting aspect of this phenomenon: without changing any existing legislation and without impinging on anyone's rights, a new impetus has been given to an industry that had been stagnating for years.

MANAGERIAL IMPACT FACTOR

- **Risk management and investment protection**: Title insurance provides a mechanism to protect against the legal risks associated with real estate transactions, particularly in contexts where title is uncertain or disputed.
- **Integration with banking operations**: Title policies are accepted by many banks as a guarantee for a mortgage, allowing them to operate more securely and facilitating access to credit for the purchase of donated property.
- **Expansion and innovation in the real estate market**: The introduction of title insurance has helped open up segments of the market that were previously considered problematic, such as donated properties.
- **Improved liquidity in the real estate market**: Title insurance policies on donated property have facilitated transactions that would otherwise have stalled due to legal uncertainty.
- **Fiscal and stakeholder benefits**: The proliferation of title insurance policies creates new income opportunities and strengthens economic flows associated with real estate transactions.

REFERENCES

Ministero dell'Economia e delle Finanze (2023). *Gli immobili in Italia 2023. Ricchezza, reddito e fiscalità immobiliare*, finanze.gov.it.

Sgambato, E. (2017). "Il 15% del mercato sono case donate.", *Il Sole 24 Ore*, luglio, ilsole24ore.com.