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Crypto And NFTs Could Change The Future Of Real Estate

By **Hugo Alvarez** (April 20, 2022, 5:30 PM EDT)

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The real estate market has been scorching hot. Home prices have climbed to record highs. But the current cycle is also running right into the latest technological wave — cryptocurrency and nonfungible tokens, or NFTs. And that promises to potentially change the way real estate is transacted in the future.

Cryptocurrency Becomes Mainstream

In the past few years, we have witnessed a historic surge in cryptocurrency demand and popularity. We have also witnessed the continued march toward global acceptance of cryptocurrency.

El Salvador, for instance, was the first nation in the world to make bitcoin legal tender in 2021. Other nations, like Vietnam, may follow El Salvador's lead even as the International Monetary Fund urges them not to. Rio de Janeiro recently announced that they would start accepting bitcoin payments to pay for taxes related to urban real estate within their city limits.

India accepted approximately $1 billion worth of Shiba Inu coin, a popular cryptocurrency, to help that nation fund the resources needed to combat the coronavirus. The ongoing conflict in Ukraine has been dubbed the world's first crypto war as both Russia and Ukraine have embraced cryptocurrency during the war.

In the U.S., Florida, Wyoming, Arizona and other states are looking to start accepting bitcoin to have taxes paid. In Miami, the mayor, and other city officials, are accepting a portion of their salary paid in bitcoin while making a concerted effort to push cryptocurrency-friendly policies. Other cities, like New York, are attempting to follow Miami's lead and vision for the space.

Companies like Microsoft Corp., AMC Entertainment Holdings Inc. and PayPal Holdings Inc. have all made it easier for the average consumer to use bitcoin. Indeed, the numbers supporting the daily use of bitcoin in the U.S. are staggering. By some estimates, there are over 30,000 bitcoin ATMs in the U.S.

Approximately 250,000 bitcoin transactions occur daily in the U.S. And of those 250,000 daily bitcoin transactions, approximately $1 million is spent daily on goods and services in the U.S. using bitcoin.

Meanwhile, retail investing platforms like Robinhood and Coinbase have made it easier for the retail investor to invest and hold cryptocurrency. The news reports of someone who invested a small sum of money using Robinhood or Coinbase, or other platforms, in some never heard of meme-based cryptocurrency only to see that crypto investment grow to life altering wealth have become routine. Because of those rags-to-riches stories, the retail investor's appetite for cryptocurrency has grown exponentially with no end in sight.

At the time of writing, bitcoin is trading at prices greater than $35,000 and analysts are predicting that its price will continue to rise. In cryptocurrency's brief history, the future has never looked brighter, especially when you consider the potential adoption in real estate.

Cryptocurrency and Real Estate

But with all of that well-documented mainstream adoption, acceptance, wealth creation and success, of bitcoin, and other cryptocurrencies, it begs the question — can it be used to buy and sell real estate? And the short answer is — yes.

In addition to the ongoing real estate boom, the nation is also undergoing a technological revolution of its own which coincides with the growing demand and acceptance for cryptocurrency.

Forced to figure out how to work from home, educate our kids from a laptop and order meals form a smartphone, our society has made significant leaps forward in technological innovation thanks largely to the restrictions placed on us as all due to the coronavirus pandemic. Many of these technological leaps forward would have taken years to become mainstream if not for the pandemic. This ongoing tech boom coincides with the growing appetite and acceptance of cryptocurrency.

All this to say, it is only a matter of time before using cryptocurrency to purchase, and sell, real estate becomes routine. We are not there yet today. But that day is coming. And it is coming faster than we may realize thanks to all the ongoing technological changes impacting our daily lives.

Opening potential real estate transactions to crypto holders only broadens the potential pool of buyers for sellers, but doing so is not without risk.

Cryptocurrency is unregulated and prone to fraud. Bitcoin-based real estate transactions may even violate a number of laws and regulations intended to govern traditional real estate transactions.

For example, the anonymity associated with cryptocurrency may prove challenging when trying to trace the source of the funds, which is often a requirement for a traditional real estate transaction. It could also run afoul of many know-your-customer banking regulations and perhaps even the Patriot Act. This is heightened in a time of war when significant financial restrictions and sanctions have been imposed on Russia given the ongoing war in Ukraine.

Ensuring compliance with the Office of Foreign Assets Control and Financial Crimes Enforcement Network becomes a little harder when dealing with the anonymity associated with bitcoin and cryptocurrency during a time involving the world's first crypto war.

Efforts to skirt those regulations, and sanctions, by engaging in cryptocurrency-based real estate transactions could lead to significant legal ramifications. Knowingly violating these sanctions carries both significant civil and criminal penalties.

Moreover, given the highly volatile nature of price fluctuations in the cryptocurrency market makes it difficult to peg the actual sales price of the real estate. Of course, tax planning to ensure compliance with the tax code must also be adhered to when preparing for these crypto-based real estate transactions.

But buying real estate using cryptocurrency has occurred, and it will continue to happen moving forward. In Miami, there have been numerous digital token transactions valued in the millions of dollars. One way these transactions are being completed is that the buyer is converting their digital token, be it bitcoin, ethereum or another digital currency, to a digital stable coin linked to the U.S. dollar, to then use those funds to complete the transaction.

While still infrequent, these transactions are growing in popularity with each new headline pushing the narrative that cryptocurrency can be used to purchase real estate.

But as one is getting ready to potentially purchase real estate using cryptocurrency, the question may arise — what role, if any, can an NFT play in that real estate transaction?

NFTs and Real Estate

Cryptocurrencies are not alone in their potential to revolutionize real estate transactions. NFTs also offer the potential to change the way real estate transactions are conducted and completed.

As defined by Wikipedia, a nonfungible token is a noninterchangeable unit of data stored on a blockchain. The blockchain is a digital ledger. As explained by Investopedia, a blockchain is a distributed database that is shared among the nodes of a computer network. As a database, a blockchain stores information electronically in digital format.

NFTs can represent real-world items like artwork and real estate. Tokenizing these real-world tangible assets makes buying, selling and trading them more efficient, while potentially reducing the probability of fraud.

Using NFTs to transfer real estate assets may be an ideal pairing. This combination potentially opens the real estate marketplace to many new investors. Much like certain stock trading platforms permitted the retail investor to purchase fractionalized shares of popular, but expensive, stocks, NFTs may permit that same class of investor to own fractionalized shares of real estate while using cryptocurrency to purchase those fractionalized shares.

Moreover, the possibility even exists that cryptocurrency-backed mortgages can be issued to purchase those fractionalized shares of real estate ownership that gets recorded on the blockchain.

That all sounds complicated, but there are already some real-world examples illustrating the potential power of this growing trend and nascent technology. In February, for instance, a Florida home became the first home in the U.S. to be auctioned off as an NFT selling for more than $654,000.[1] Also, there are already companies in the U.S. that offer residential mortgages as NFTs.

The advantage of these potential NFT mortgages is that they continue to empower the retail investor. Last year saw wild stock market swings in companies like AMC and GameStop Corp. as well as the continued growth and popularity in cryptocurrencies and NFTs. All of these were fueled largely by retail investors, but permitting NFT-related mortgages to be tied to the blockchain will open up the $17 trillion mortgage industry to retail investors.

Doing so will potentially permit the average retail investor to profit in the mortgage industry. NFTs linked to the mortgages will appreciate, and the retail investor will be able to see their investment grow while minimizing the potential risk as their investment is tied to real estate as recorded on the blockchain.

Of course, and much like there are still lots of questions that need to be addressed with cryptocurrencies in real estate transactions, there are also lots of questions that still need to be asked and answered before the use of NFTs in real estate, and mortgages, becomes mainstream.

Title Insurance and the Real Estate Blockchain

One of the biggest issues to address is how practicable it is today to tie real estate to the blockchain and what impact, if any, that may have on title insurance. Indeed, like with all new technological advances, it has been suggested that the blockchain may end the business of title insurance in 20 to 40 years.

The thesis that the blockchain will supplant title insurance in the future is predicated on how title insurance works today with the potential promise of increased efficiencies that the blockchain offers for the future.

Today, when a buyer and seller contract to purchase real estate, a title commitment is often required before the issuance of any title insurance to complete that transaction.

Title insurance is often a requirement if there is financing involved to purchase real estate. Title to a piece of real estate is the evidence that the owner is in lawful possession of that property. Title insurance insures against financial loss from defects in title to that real estate.

Therefore, title insurance protects against claims from title defects such as another person claiming an ownership interest in the property, fraud, improperly recorded instruments, encroachments and other related issues associated with the property. And that title insurance is often a requirement in any financing agreement to purchase real estate because the lender wants to ensure that their loan is protected from any future potential title defects or title related claims before issuing the loan.

However, it is unquestioned that a typical real estate transaction takes a good bit of time to complete. One of the biggest time-consuming events leading up to a real estate closing is the work necessary to prepare a title commitment. That title commitment will often reveal issues with the chain of title on the property.

It therefore takes time to order that commitment, review the commitment once received, update and then correct the issues that may appear on those reports before the transaction can be completed. And all of that will take weeks, if not months, to do.

But the blockchain promises to change all of that. The blockchain not only offers the promise of fractionalized investing in real estate for the retail investor, but also promises to speed up the work associated with the issuance of a title commitment thereby potentially ensuring a faster completion of the real estate transaction.

But speed and efficiency does not necessarily equate to the elimination of risk. What happens when the data entered on the blockchain is flawed? Regardless of how efficient these technological advances are to help speed up real estate transactions while also opening them up to more investors, human error will be ever present. That means the need for title insurance is not disappearing, even as cryptocurrencies, the blockchain and NFTs all become more mainstream in American life.

If anything, the need to mitigate against human error, data recording flaws, and even hacks into the blockchain, increases which heightens the need to mitigate any potential risk associated with potential title defect claims.

To suggest that this technology will eliminate data entry errors such as the correct party names, property descriptions and the like, is just not realistic. Human error will be present for as long as humans roam the earth. Plus, the ever-present prospect of a hack that actually alters the blockchain will be ever present as well.

Consequently, understanding that human error, fraud and even cyberattacks, will be ever present, will title insurance companies agree to offer title insurance on fractionalized purchases of real estate using cryptocurrency with NFTs that are recorded on the blockchain?

Given that title insurance was initially created to mitigate against potential risks associated with flawed recordings clouding title, the likelihood is that they will continue to offer insurance on those same risks today even if the risk they are insuring against are recorded on the blockchain as opposed to the local county recording office.

That means the need for title insurance will remain necessary even as the technology used to complete these transactions is undergoing a revolution. Therefore, if this trend continues to pick up steam, you can bet that the issuance of title insurance on these types of transactions will also become more routine, and necessary.

Conclusion

While there are numerous challenges in rendering a real estate crypto transaction routine, considering the ever-evolving internet, the continued growth and mainstream adoption of NFTs, and cryptocurrency, it is only a matter of time before real estate transactions are funded using cryptocurrency, and mortgages are issued and recorded on the blockchain.

If nothing else, the future for retail investing in this space may provide a sneak-peak preview into the future of mortgage lending and real estate investing. The decentralized nature of these transactions coupled with the increasingly decentralized internet provides the promise of opening these markets to a new group of retail investors looking for the next big thing.

But, these changes are not without risk. Human error, and fraud, will be ever present, and title insurance may still be needed to mitigate against that risk and help combat title defect related claims associated with poorly entered data on the blockchain.

To paraphrase Ferris Bueller, if you don't stop to see and assess all the changes that are happening, you could miss it. These changes are happening right now. They are happening fast. They all promise to change the way real estate is transacted and impact the future of title insurance claims too.

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[1] https://www.kiro7.com/news/trending/florida-home-first-us-sold-nft-buyer-pays-654k-cryptocurrency/MQP52URPPVDFJCJJKNEEMO7NWU/.
