

On the implementation of the of Land Title Registration in Ghana

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On the implementation of the of Land Title Registration

Imagine a country where:

- Nobody can identify who owns what,
- Addresses cannot be easily verified,
- People cannot be made to pay their debts
- Resources cannot conveniently be turned into money
- Ownership cannot be divided into shares
- Description of assets are not standardized and cannot be easily compared
- The rules that govern property vary from neighborhood to neighborhood...

Hernando de Soto, 2003

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On the implementation of the of Land Title Registration

- o This is the life of many developing countries (80% of the population)
- o The 80% majority is NOT desperately impoverished as often imagined
- o They actually hold enormous asset BUT in defective title that cannot be turned into capital to create the wealth of nations
- o Developing countries thus have enormous amount of “dead capital”
- o Leaders of the “third world” need not wander the world seeking foreign aid and grants from international financial institutions IF they can unravel the mystery of capital - how to transform asset into live capital
- o The first step to unraveling the mystery is the formalization of landed assets - hence Land Title & Registration

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Land Title Registration

Benefits.....

- o Less land litigation and land disputes
 - Land conflicts virtually be eliminated
 - Reduces court cost
 - Boundary clarification
 - well documented rights to be known to all
 - register to be open to public
- o Improved basis for land assessment and taxation
 - historical reason for cadastral development
 - increases government revenue
 - provides a fairer system, every landowner pay
 - more efficient system of tax collection

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Land Title Registration

Benefits.....

- o Administrative benefits
 - can be used for other governmental purposes, e.g. census data, land planning, land policy, local government, utilities, electoral boundaries
 - reduces duplication
- o Improved map production
 - good maps are required for all development activities
 - cadastral maps are provided at large scales,
 - maps can be updated continuously
 - digital maps easily copied and shared

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Land Title Registration

Benefits.....

- o Easier land and real estate transactions
 - simplified system accessible by the public
 - simple system reduces cost of conveyancing
 - ownership information use increases with easy access
- o Land and real estate markets established
 - absence of formal system restricts land markets
 - increased risk with inadequate title information
 - investors in real estate require minimum risk

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Land Title Registration

Calculating benefits.....

- o difficult to measure in dollar terms
- o benefits derived from savings e.g. court costs
- o increase in land value with secure tenure
- o agricultural productions increase
- o increase in credit activity measurable
- o benefits can be measured by baseline studies

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Land Title Registration

motivation.....

- o the benefits listed above
- o land is most fundamental of assets, important economic asset
 - BUT has been source of conflict too,
 - has not yielded the great benefits beyond its physical existence because of defective or inadequate documentation
- o paradigm shift – LTR as first step to unraveling the mystery of capital

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Land Title Registration

motivation....

*“... (in the west) every parcel of land, every building, every piece of equipment, or store of inventories is represented in a property document that is the visible sign of a vast hidden process that connects all these assets to the rest of the economy.....so the assets can lead invisible, parallel life alongside their material existence....
.... This representational process life is injected into assets and made to generate capital.”*

Hernando de Soto

This is beyond

- achieving the goals of Vision 2020 – becoming middle class income
- property owning democracy
- total change of mindset

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Land Title Registration

Some attempts

- o 1883 Land Registration Enactment of the Queens advocate
- o Land Registry Act of 1897
- o Land development act 1960
- o The Farm Lands Protection act of 1962....all forms of deeds
- o The Land Registry Act of 1962 – most
 - provided prima facie evidence for title
 - did not require accurate plans for registration
 - provided no systematic adjudication procedure
 - excluded traditional but valid oral transactions

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Land Title Registration

- o 1986 - Land Title Registration Law (PNDC law 152) was enacted to remedy weaknesses in system of registration
 - (to give certainty to land, facilitate proof of land ownership; safe, simple, cheap land dealings...)
- o 1999 – National Land Policy (NLP), amended in 2002
 - Government strategy on land management and administration
 - Direction for facilitating equitable access to land and land tenure security based on registered titles to promote community participation
 - ensure prompt payment of fair compensation for land acquired by the state
 - promote research into land ownership, tenure, land market and land development process
- o Land Administration Project (LAP), is first phase of NLP implementation to lay the foundation for long term land administration reform
 - one of the components of LAP is to improve land titling, registration, valuation and information system

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Land Title Registration

- o Is LAP going to fall prey to problems that thwarted past attempts?
- o Has anything changed?
- o Important to review the factors that have dogged past attempts at registration
- o Find solutions to ensure efficient and effective implementation

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Land Ownership

- Four categories of land (1992 constitution)
 - public/state land
 - stool/skin lands
 - clan/family lands
 - private lands
- 80% of total land holding mainly customary
- Majority of land market informal (especially in rural areas) – ownership insecurities
 - Land Title Registry, Survey department, Town and Country Land Valuation Board, Administrator of Stool Lands, Stool Lands Commission

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Land Ownership

- Land administration involves many government agencies
- Land acquisition and registration of land may require interaction with all agencies
- Long, tedious, cumbersome, registration process

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implementation

- Vision 2020 – middle income, property-owning
- Effective and efficient land administration infrastructure vital to
 - creation of capital
 - economic and social development
 - support operation of land markets
 - land use planning
 - land taxation
 - urban infrastructure
 - natural resource management

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implementation

- General re-organization of land administration to improve
 - mapping
 - titling
 - registration
 - conveyancing
- Develop cost-effective methods of adjudicating land and issuing titles
- Title as well as deeds registration running side by side
- decentralization

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implementation issues

- In very broad terms, limitations to implementation of LTR fall into 3 categories (American Cadastre 1998 study of 1986 LTR):
- Institutional
- Technological and resource issues
- Financial issues

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implementation issues

Institutional...

- lack of comprehensive approach –turf wars
- Too many agencies involved in the registration process
 - (e.g. registration of stool may involve Survey department, Town and Country Planning, Lands commission, Lands title registry)
 - causes delays, taking an average of 382 days, seven different procedures, and 4.1% of cost of property value
- Lack of coordination and adherence to predefined operational roles of the agencies
- Lack of basic education about guidelines and procedures for landowners to follow
- Until LAP -Land title registration there was low priority for LTR

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implementation issues

Technological and resource...

- available technologies were inadequate to match current demand for land transactions
- Lack of appropriate tools and technology to execute simple tasks
- Personnel training in IT and computing procedures
- Modern survey and digital drafting methods should be incorporated into cadastral mapping

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implementation issues

Financial issues...

- Funding for LTR mostly through donor grants and loans usually as part of general development program
- LAP has received great deal of financial support from World Bank
- Local government budgetary allocation for LTR has been limited (no immediate returns on investment, cost recovery)
- Typical registration fees do not generate enough revenue – 4% of total property value may be too high
- Barely any functional property tax system in place
- Registration system should be self sustaining in the long run

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Discussions and summary

- There is no disagreement about the need for LTR
- But problems, bottlenecks (associated with deed) still persist in land administration
- Successful implementation will require re-education of the parallel landed property beyond its physical existence
- Banking/financial sector should be made part of the exercise
- Outmoded customary laws on land modernized
- Procedures for land acquisition and subsequent LTR should be modernized, streamlined, comprehensive
- Once land acquired, registration process should involve the Survey department (or licensed Surveyor) and Title registry

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Discussions and Summary

- Survey Department alone cannot meet the geodetic control base and cadastral mapping needs – involve private surveyors, professional licensure
- Involve other private sector professionals in process – Real estate agents, mortgage brokers, insurance companies
- Property Laws should simple, modernized, and enforceable
 - laws should be harmonized
 - adjudication process should have legal muscle to bring finality to decisions
- Government should political will to pursue the registration process – it is critical to economic prosperity of the country

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Conclusion

- From 1960 to LAP(2003) – we know we have problems with our land administration system and we are doing something about it with LAP
- Yes problems are many, may even take longer than we want, but we must stick with it LAP
- We are receiving a lot goodwill and financial support to succeed
- We have a government that is very supportive of the process
- We have the expertise, the technology is available, this is the time.
- If there is one single thing that can be done now – educate the public, publicize (land owners – seller and buyer) to ensure proper documentation on land transaction (especially surveys). Landed property can have life beyond physical

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