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A Historical Post-formalisation Comparison of Two Settlements in South Africa

L Roux & M Barry




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Facing the Challenges – Building the Capacity
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Introduction

Off-register transactions

Transmuted Titles

- trans – across
- mutare – change form

Land
Registration
System

Title deed as
evidence of
registered
transaction

→

←

Unofficial
Community
System

Title deed as
symbolic artefact
embodying
ownership

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Introduction

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(Adapted from Barry 1999)

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Fingo Village: History

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1855	Fingo Village surveyed
1857	320 titles allocated
Late 1800s	Continued population growth
1941	Proposal to expropriate all property in Fingo Village – rejected
1950	Group Areas Act
1957	Fingo Village designated a “coloured group area”
1970	Fingo Village proclaimed a “coloured group area”
1980	Government announce Fingo Village may remain a “black group area” but ownership replaced with 99-year leasehold

Fingo reprieve sparks off row



The Reprieve of Grahamstown's Fingo Village has led to conflicting statements from different parts of the community, with some maintaining that it was the work of the Community Council and others that it was in fact community action.
SASPI NATIONAL Investigator.

The reprieve of Grahamstown's Fingo Village has led to conflicting statements from different parts of the community, with some maintaining that it was the work of the Community Council and others that it was in fact community action. SASPI NATIONAL Investigator.



Tenants get better deal

Tenants in Fingo Village are getting a better deal from the government, with a new leasehold system being introduced. The new system will allow tenants to own their homes for 99 years, a significant improvement on the previous leasehold system.

Students dispute council's "we did it" victory statement. The statement by the council claiming that they were the ones who secured the reprieve for Fingo Village is being disputed by students who claim that it was the result of their own community action.

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Fingo Village: Land Records

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Cecil Manona (1987)

- Dead man's titles
- Family land (*umhlaba welifa*)
 - custom
 - intestate

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Rosalie Kingwell (2009)

- 1920's – government aware of mismatch in records
- 1940s, 1960s, 1980s – commissions to re-adjudicate dead man's titles
- Current Situation
 - Evidence of ownership
 - correspondence related to commissions
 - titles – but most titles not current
 - municipal accounts

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Rosalie Kingwell (2009)

- Inheritance
 - most families interviewed obtained land through inheritance
- Titles remain a symbol of family ownership
- Belief: physical form of title conveys ownership
 - poor understanding of conveyancing
- Security of tenure
 - social recognition
 - municipal services and government subsidies
- Will

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Rosalie Kingwell (2009)

- Family ownership
 - membership
 - rights
 - inalienable
 - responsible person as custodian
- Municipal perspective
 - ignorance, poverty, lack of education, indiscipline
- Hybrid form of tenure
 - title as symbol
 - social recognition of family tenure
- Land registration system

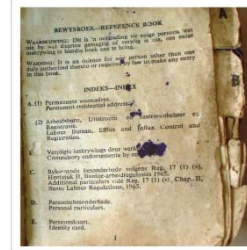
Two systems
operating in
parallel

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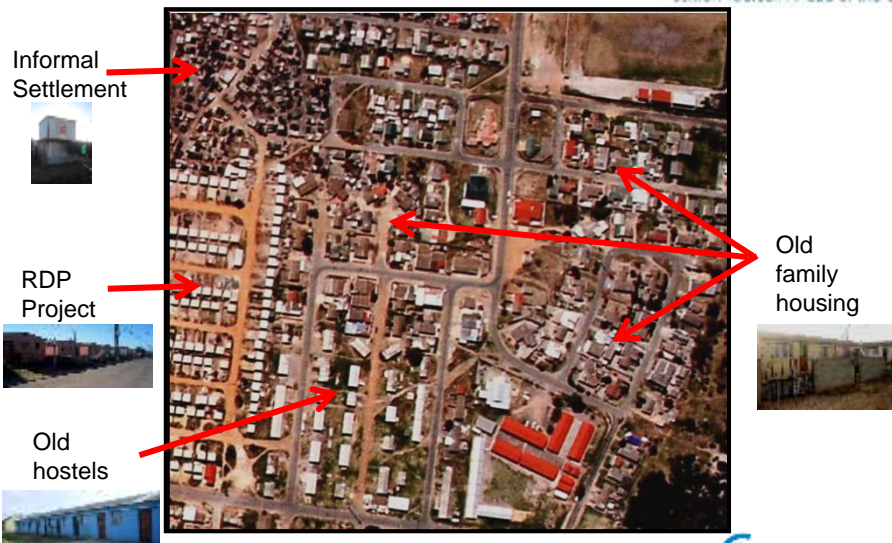


Phumla: History

1950	Group Areas Act
1951	950 black Africans in Seedorp area
1963	Phumla established
1965	People forcibly removed to Phumla
Mid-1980s	1500 residents in Phumla
1988	Houses sold under 99-year lease
1996	4883 residents in Phumla
2001	RDP project (1500 houses)
2007	30 000 residents in Phumla



Phumla



(Chief Directorate: Surveys & Mapping 2005)

Phumla: Land Records

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2001 RDP project

- Seedorp municipality – mismatch in records
- Off-register transfers (sales, inheritance)
- Perspective of municipality and conveyancers
 - cost
 - education
- Land Titles Adjustment Pilot Project



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Phumla: Land Records

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- Inheritance
- Secure a house for my children
- Property and Family



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Discussion

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Land Records

- Mismatch in land records
- Family Tenure
- Transmuted Titles
 - Municipal perspective
 - Prevailing belief system



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Conclusions

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- Fingo Village and Phumla
- Family Tenure
- Planning and Administration
- Security of Tenure



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References

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