

Property Rights on Existing Reconstruction and Development Program Houses (RDP)- Literature review

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Abstract

The major cause of failure in land administration systems in many countries is poor management and lack of good governance. Hence, the paper examines previous literature on the impact of property right on low cost housing. The study is conducted with reference to existing theoretical literature review, published and unpublished research by other researchers. One of the primary findings emanating from the study reveals that enhanced political voice and political accountability has an impact on improving the prospects for secure property rights. Furthermore if the governments of developing countries provide real property ownership with clear titles and rights enforceable by law, then poor people will be able to use their assets to obtain credit which can be employed in productive activities, and countries could lever themselves and their poor inhabitants out of poverty. The research will make contribution to type of land reform which lead to sustainable development through land titling, a reduction in the probability of being evicted, or otherwise losing land rights and provide land users with greater assurance that they will enjoy the fruits of their labour and investment, thereby encouraging them to make long-term investments for sustainable use of their properties.

Keywords

Property rights, Housing, Regulatory framework and Governance

1. INTRODUCTION

Land governance has been identified as an integral part to poverty reduction and provision of tenure security (Zakout, et al., 2009). Good governance in land administration aims to protect the property rights of individuals, enterprise as well as state, by introducing principles such as transparency, accountability, rule of law equity and participation into land related public sector. Rights are described as socially or legally recognized entitlements to access, use and control areas of land and related natural resources (Zakout, et al., 2009). Formal improvement refers to a house that: has a legitimate formal title, conforms with local planning regulations and building codes, structurally sound, and can be used as a security for a lengthy term home loan (Umhlaba Consulting Group, 2013). Furthermore, housing is a necessity and a basic human right and need (Mashwama, Aigbavboa & Thwala, 2018). Tenure security is defined as the preservation in conceptual contrast to eviction, probability of: saleability of property, exchange of ownership through estate, pledging as collateral for mortgage and access to loan under certain state of affairs (De Soto 2003). Household income, housing policies, legal ownership of property with correct title deeds and standards enacted by regulation are elements which have direct impact on property rights of houses occupied by the poor (Mattingly, 2013).

2. NOTION OF RECONSTRUCTION AND DEVELOPMENT PROGRAM HOUSES

Poor governance, whether in the formal land administration or customary tenure arrangements, implies that the land rights are not protected (Olujimi & Iyanda, 2013). Absence of reliable approaches to record ownership of land leaves all spheres of government with no answers as to who are the legal owners of the land, in which side and the purpose for which land has been utilised (Ghebru et al., 2014). The essence of honesty and accountability favourable to functional trading of land will be nonexistence due to lack of uncomplicated regulatory implementation, transparent legislation, affordable regulatory procedures, secure type of tenure, responsive potential departments (Burns, 2007).

Governments must initiate processes which are much more positive and supportive to poor community including the provision of land, upgrading shelter and services, and help with building sustainable livelihoods (Turok & McGanahan, 2013). An enhanced political voice and political accountability has an impact on improving the prospects for secure property rights (Domingo, 2013). This perspective draws on the assumption that the rule of law is necessary to secure property rights. As such, it focuses on understanding the enabling governance conditions needed for the rule of law to be strengthened as a precondition for stabilising property rights (Domingo, 2013).

3. AUTHENTICATING SECURITY OF TENURE SYSTEM

The formalisation of land ownership, Land Titling program were recommended by the World Bank, IMF and UN (U.N Best Practices Handbook 2003). A land right is secured when the owner is free of all encumbrances on the title of such land (Ndukwe 2001). In many developing countries, poor people are essentially excluded from formalizing their land and property rights and, consequently, a black market exists outside of the formal economy (De Soto 2003). If the governments of developing countries provide real property ownership with clear titles and rights enforceable by law, then poor people will be able to use their assets to obtain credit which can be employed in productive activities, and countries could lever themselves and their poor inhabitants out of poverty (Fabiya, 1990). The reasoning implies that more secure and well-defined property may lead individuals to substitute away from unproductive conflict over property towards productive activities (Trebilcock & Veel, 2014).

Various researchers opposed the proposition that formal ownership to land occupied by the poor can bring about enhanced housing system. An evidence has been drawn up in Peru Land Titling program where immense land titling project presumed that land tenure formalisation does not have a positive effect on household income or ability to obtain financial service including credit, but it may have a less effective impact on existing low cost housing development (Kawaga 2001). It has been further discovered in Peru's Land Titling Program that acquiring formal property rights for land does not promote access to housing finance, but instead, the primary principle to obtain mortgage is through family's labour remuneration (Cockburn, 2001). Evidence from an impact evaluation study conducted on nationwide titling programme in Peru shows that titling led to a limited reduction of credit scoring. But the same analysis found that formal property ownership had no effect on approval rates for private sector loans (Rodrick, 2000).

4. GOVERNMENT INTERVENTION ON LAND REFORM

Land reform as a regulation requires appropriate capacity and the organisations to work feasibly and land sales has been politically deceived under the hands of disreputable workers, hence the poor have land outside the formal structure, yet don't have title deed (Cousins et al, 2005). Government financed units are regularly informally sold/exchanged, with no relating record being kept of the change in ownership. The underlying recipients would then not be able to further access to housing subsidy as they are registered on the National Housing Subsidy Database as a recipient (Umhlaba Consulting Group, 2013). Property holders are not allowed to apply for building plan or land use endorsement since they don't hold the lawful status of ownership (SPLUMA, 2013). According to Kasimba, (2017) adherents of this type of land reform justify the probability of being evicted, or otherwise losing land rights, provides land users with greater assurance that they will enjoy the fruits of their labour and investment, thereby encouraging them to make long-term investments for sustainable use of properties.

5. METHODOLOGY

The study was conducted with reference to existing theoretical literature review. Published, unpublished, online journals and magazines by other researchers on similar research was critically examined to investigate the research problem. The qualitative approach provides perceptions to social components of the procedures amongst agencies (Mashwama, Aigbavboa & Thwala, 2017). Qualitative technique is regarded a suitable method to investigate impacts of property rights on existing low cost housing. The approach will assist the manner on which role players (beneficiaries, land reform, government, and policy makers) better understand what is happening in their respective authorities with reference to property rights on existing low cost housing.

6. FINDINGS FROM LITERATURE

Literature review showed that property rights are lawfully known entitlements to right to use and manage areas of land and related natural resources. Rights in land are identified as an essential measure to poverty alleviation and establishment of tenure security (Zakout, et al.2009). Tenure security is the preservation in theoretical distinction to

eviction, likelihood of selling the property, change of ownership by estate, use as surety for home loan and access to credit under a definite state of affairs (De Soto, 2003). Preserving property rights of individuals, enterprise as well as state, by presenting standards such as transparency, accountability, rule of law, equity and contribution into land related public sector is the primary objective of good regulation in land administration (Zakout, *et al* 2009).

Poor regulation in land administration or normal tenure provisions, entails that the land rights are not secured. An economic regulator which delays effectiveness and prevents private investment originates from urban overcrowding (Olujimi & Iyanda, 2013). Properties are sold illegally by the poor in many countries and they are not incorporated in formalising land use and property rights (De Soto 2003 & Mashwama, Aigbavboa & Thwala, 2018). There is no record kept for change of ownership of low cost houses which are frequently sold illegally (Mashwama, Aigbavboa & Thwala, 2018). In order for institutes to function efficiently, land reform as a by-law needs proper expertise to deal with sales of land that has been politically deceived under the hands of dishonest employees, hence the poor have and use land informally, and are not in possession of title deeds (Cousins *et al*, 2005).

All levels of government have no solution as to who are the legitimate owners of land and which side and for what purpose the land has been used due to lack of consistent methods to record ownership (Ghebru *et al.*, 2014). The poor reside on condition which is harmful to their well-being (Turok & McGanahan, 2013). Building plan applications of low income residents cannot be processed because they are not legal owners of properties (SPLUMA, 2013). It is the role of government to develop measures to assist the poor to establish maintainable standard of living and access to services and infrastructure (Turok & McGanahan, 2013). The aim of Urban Land Management directive is to preserve, develop investments and prevent land use that negatively affect the value of property. Moreover, the need of the poor must be directly addressed by Land Use Management system through developments of appropriate systems. Conforming to this type of by law reduces the probability of eviction, losing land right and reassure land and building users value for money on their investment (Kasimbazi, 2017).

A case study drawn up from Peru Land Titling program recognised that strengthening land tenure does not yield a positive household income or guarantee home loan or credit approval from financial institutions, but it can have less effective influence on construction of existing low cost housing (Kawaga, 2001). Furthermore, it has been revealed in Peru's Land Titling Program that formalising property right does not stimulate access to housing finance, instead the key standard to acquire home loan is through the household income (Cockburn, 2001). An assessment conducted on Peru titling program indicated that titling led to an enormous decrease in credit scoring. According to Rodrick, (2000), indicated that formal property ownership has no implications on loan approval rates by financial institutions.

7. CONCLUSION

Literature review revealed that in various developing countries, poor people are essentially excluded from formalizing their land and property rights and, consequently, a black market exists outside of the formal economy. Moreover if the government of developing countries provide real property ownership with clear titles and rights enforceable by law, then poor people will be able to use their assets to obtain credit which can be employed in productive activities so that countries could get themselves and their poor inhabitants out of poverty. Other researchers found that acquiring formal property rights for land does not promote access to housing finance, but instead, the household income is the primary principle to obtain mortgage. Governance on property right is the contributing factor to control the way and purpose which land and buildings occupied by the poor can be used. There should be some point of accountability and intervention to reinforce formal property rights to existing low cost houses in order to enhance quality of life to beneficiaries and socio economic development of the country. There is a need to find a suitable standards for land management system that react to methods of urban land market that clearly address the need of the poor. The objective of the current legislative (Spatial Land Use Management) framework in South Africa is to protect and promote investment but the framework does otherwise for the poor. The Act prevents unauthorized land use that have negative impact on property values.

8. RECOMMENDATIONS

The study recommend a balanced socio economic development for beneficiaries of low cost housing holistically. It means the type of land reform that regulates low cost housing should be interlinked. It must not only provide secure tenure without sustainable employment. Secure tenure can only give partial security, whereas combination of security

of tenure and employment make it possible to alleviate poverty and promote investment. Beneficiaries will be able to apply for building plans in the event they want to extend their properties, to formally sell properties in the open market, use property as collateral to secure mortgage, have properties registered in their names at deeds office and be able to formalise all property related transactions.

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