

Urban Shelter

Secure Tenure and Land Titling in a Slum Upgrading Process

Frida Resvik

1 Introduction

Slum, favela, rookery, villa, shantytown are all names of over populated areas with shelter for the urban poor. The same kind of area exists all over the world and is the most visible and concrete way we see the situation of the poor population. The lack of infrastructure, waste management, sewer and water services result in bad hygiene and health problems. Ever since the urbanizations started during the industrial revolution, the slum has existed in various forms. The issue does not longer exist in the same way in the West but in the developing world it is a growing problem.

Slum upgrading is a process that aims to improve the living conditions for slum dwellers. To increase safety and hygiene are some goals but also the security for dwellers to keep their houses and the land they've built it on. Slums are often squatter settlements, built on occupied land, either own by the state or a private property owners. Authorities often ignore these informal areas; do not provide services and basic infrastructure or force eviction and replace inhabitants. The legalization is often seen as necessary to include the slum area in to the rest of the city and include slum dwellers to the rest of the society. The legalization can be accomplished in different ways.

This paper is examining the land-titling problem within a slum upgrading process. Land titling is often seen as a fundamental part of an upgrading process. However, there are negative impacts and there is a lack of empirical facts to support the method. It is a complex issue that affects many factors in the process and in the society as a whole.

With a literature study and case studies the focus and effects on land titling is explained. Other methods to reach secure land tenure and how it can be used to upgrade slum are be explored. The challenge is to find affordable and secure tenure solutions for the urban poor that also can play a part of the economic development.

2 Urban Shelter Development

Slums today

Slums are informal settlements within cities that are heavily populated and lack public services such as water and sewer, waste collection and drainage. The inhabitants live under health- and life-threatening circumstances; with communicable diseases, no decent way to conserve food, no medical treatment, danger, assault and are outside the formal city's opportunities and safety net. Houses are built fast and temporary with material found in the nearby area. Slum dwellers can be unrecognized by authorities and risk a forced eviction or resettlement. There is a lack of secure tenure or any legal claim of the land used and there is no planning or zoning regulation. Slum areas are often developed on places where formal builders do not want to build; it can be on hillsides, on the outskirts of the city or close to industrial areas (Cities Alliance, 2014). The amount of people living under these circumstances, in urban areas without secure tenure, where estimates to be 943 million people in 2005 and is expected to increase to 2 billion by 2030. (UN-HABITAT, 2008)

In September 2000 “the largest gathering of world leaders” adopted the UN Millennium Declaration including 8 global time-bound goals to reduce poverty. The millennium Goal 7, target 11 is to improve lives of at least 100 million slum dwellers by the year of 2020 (UN, 2013). Despite that 100 million dwellers are a small part of the world slum population the goal is seen as ambitious (Garau, Sclar, & Carolini, 2005). To reach the goal there are two important roads, to supply adequate and affordable housing to people who have not yet moved in to slum areas and an effective way to improve existing slums.

What led to slums and urban squatter settlements?

Planning theories used in Europe influences the urban growth in the developing world. Especially during the post-war time when many, what we today call, developing countries were decolonized. Since the industrial revolution when the urbanization created overpopulated areas within cities, there have been many means to solve the problem (Buckley & Kalarickal, 2006). Planning theories to control the rapid growth in cities largely influenced the developing in former

colonies. In Europe after the wars the focus was on reconstruction and modernization, prefabrication and massive high-rise developments.

Decolonisation led to rapid population growth in former colonies, especially in cities. Urbanization was promoted with the reason to provide adequate labour for the industry. The population growth was expected to adjust naturally as they had in the West, by demographic transition and urban areas with different specialised functions. Governments created their own housing programmes and developed urban master plans. However, economic pressure reduced the funding for housing programmes. (Jenkins, Smith, & Ping Wang, 2007)

The continued rapid urbanization and the absence of the natural equalisation among urban areas expected, together with inadequate supply of housing, slum and squatter settlements developed. The housing provided where criticized to be over designed, expensive, did not encourage poor to use their own resources to improve their situation and missed the target group (Buckley & Kalarickal, 2006). In the 1960's development became focused on financial support instead of direct supply from the government. This was made through increased mortgage finance. However, fiscal difficulties from both public and individual sides in developing countries made it difficult. During this time the ideas of aided self-build arose and got support as a substitute to conventional housing. The capacity for many governments to provide adequate and affordable housing, both self-build and conventional, were not enough to supply the rapid urban poor population. In conclusion there was a growing gap between supply and demand of affordable housing that forced squatter settlements. (Jenkins, Smith, & Ping Wang, 2007)

The slum population in the world still grow due to several factors. The increased population growth, natural disasters, climate change and conflicts are some. So is also the rural urban migration caused by lack of economic opportunities and pressure on rural land. To handle or change this likely development both efficient land use and accessible secure land tenure are required as well as many other infrastructure and economic actions. However, many organisations, governments and slum dwellers see secure tenure as a fundamental step in slum upgrading as well as in the inhabitants and countries economy and

welfare (UN-HABITAT, 2008). Housing policies are inadequate with the population growth and the socioeconomic status of the people seeking homes.

Slum upgrading

Slum upgrading is a process that seeks to improve living conditions for slum dwellers. The process includes many factors within physical infrastructure as well as legal and social support programmes. The installing or improvement of basic infrastructure like water and sewer systems, storm water and waste management, roads and street lights result in reduction of many of the problems found in slum areas. Security of tenure and land rights is not as visual but can play an important part in implementing the parts mentioned. Furthermore secure land rights can encourage people to improve their parcel and building. With the right to keep the land, investments are secured for a long-term use. Without the security the houses are temporary built since there is a risk of forced eviction. It is estimated that 5 million people every year experience forced eviction or are relocated. This generates personal suffering and is merely moving the problem to another location, often in the same city or region. Furthermore it is reducing the amount of housing even though there already is a limited supply (UN-HABITAT, 2008). There are however several ways to deal with the tenure security issue, as well as there are several ways to look at slum upgrading as a process.

The debate about self-help and land titling

Land titling programs are used alone or together with other upgrading elements to make informal settlements formal and improve living conditions. The programs purpose is to give slum dwellers full ownership of the land parcel they have built their house on. The full ownership involves complete access with both rights and responsibilities. The intention is that property owners will have a reason to invest in their property and also get the opportunity to get mortgage loans.

This is deeply connected to the self-help aspect of slum upgrading. A debate about self-help and legal titles has existed since the 1960's and has become a central model in housing policies. John Turner is one of the foremost representatives of the self-help method. He is an English architect that after time spent working with squatter settlements in Peru 1957-1967 got in to the debate

about self-help and community development. Turner argues that housing are best managed and provided by those who actually live in the area than being centrally controlled. Turner also supports full ownership of properties; he claims that this would encourage people to improve their housing. Furthermore he expressed that high regulatory standards would undermine instead of guarantee acceptable housing. Since self-help focuses of individual houses instead of having one solution for all, architectural solutions and resources will be handle in a better way. However Rod Burgess criticized the model in the end of the 1970's saying that there should be a wider political and economic view on the models implemented in the developing world. He argued that legalization of squatter areas would lead to displacement of the original settlers and leave place for higher-income groups. He saw it as the commercial interest being the first priority instead of the people. Additionally to Burgess political criticism there were other more operational evaluations comparing advantages and disadvantages of individual and collective efforts, as well as social variations in spontaneous settlements and how this influenced upgrading. (Jenkins, Smith, & Ping Wang, 2007) (Varley, 2002)

Turner's concepts were in focus at the Vancouver United Nation Habitat Conference in 1976 and led to international agencies and governments to recommend land titling and self-help as means to stimulate development. The World Bank's policies were notably influenced; the main polices to increase affordable housing were to funding full ownership and self-help, reduction in standards, improved access to loans and appropriate materials and technologies (Payne, Durand-Lasserve, & Rakodi, 2007). In the late 1970's the focus shifted from new self-help-areas to upgrading squatter settlements but with the same self-help approach. The debate was in 2000 reawaken by Hernando de Soto and his book "The mystery of Capital". de Soto is promoting land titles as a method to reduce poverty in the developing world. In "The Mystery of Capital" he describes parallels between the non-existent security in properties and the lack of capital. Without formal property titles, assets can not convert to the formal sector but is what de Soto calls dead capital. With a functional property system, de Soto argues, the west can inject life into assets and generate capital. Property with formal title can be used as a collateral for credit and mortgage that can fund

businesses, they can also be used as links to owners credit history and collection of debts and taxes. (de Soto, 2000)

The debate supported land titling as an important part of development and de Soto got support from international finance institutions, development agencies and national governments (Galiani & Scharfrodsky, 2005). However there has been a lot of criticism, especially since empirical information shows that the method does not work as sufficient as believed. (Payne, Durand-Lasserve, & Rakodi, 2007)

Effects of land titling

Consequences from land titling programs have been both positive and negative. Some of the consequences are expected and wanted, while others are unforeseen. They differ a lot from project to project and are depending on cultural, social, economic and legal preconditions.

One of the most fundamental objectives in land-titling projects is to secure the feeling of security to the property. Despite the legal context the properties might not be secure in practise, security cannot be seen as a legal fact but as a relative concept depending on how dwellers are aware of the security and how they handle it. Market-driven effects such as displacement due to higher property values and gentrification can reduce secure tenure. In contrast there are cases where there were the dwellers beforehand felt security “de facto“ and the legal aspect did not contribute as much as expected. There are also cases where despite higher property values people decide to stay since they see their house as a home and not a tradable object.

Gentrification is the process where the social composition in an area changes to a wealthier population. In an area with gentrification there is an increase in property values and in revenues for local businesses. Furthermore there is a decrease in crime rates and higher incentive to improve housing and infrastructure. A possible outcome is that individuals with lower socio-economic status is forced to move from the area due to higher property values, rents and higher daily expenses. Gentrification is seen as a benefit from land titling since the main reason is to upgrade the slum, the use of open and efficient property markets is also seen as a benefit. However if the gentrifications displace dwellers

instead of improving the living conditions for them, the achievements in a upgrading process do not go to the target group. If the negative impacts of gentrification affect areas that have gone through a slum upgrading process depends on the previous explained tenure security aspects. Moreover the level of administration, zoning, development norms and registration procedures affect who can afford to stay.

Property values increase generally 25 % or in some cases even more. This benefits people with title but not those who would like to buy in the future and might create larger class differences.

A presumed effect in land titling is that investment in the properties increase, which is one of the main factors justifying the method. The assumption is that settlers will invest more if they have the security, so that their assets are safe. A case study in Peru shows a difference between how many per cent of the population was willing to invest in their property based on property titles. Without property titles 39 % invested to improve their dwelling while 75 % of the population in an area that had been through a titling process invested. The same case study showed that houses with property titles have more rooms and better quality, furthermore the property value increased between 20-30 %. The fact that titling has a significant on investment is practically supported by all observations of land titling projects. However there are also cases, for example in Eldoret, Kenya, where households invest in making their houses sustainable, without a title to get “de facto” secure tenure. Since this would decrease the government’s will to force them to leave and remove the house.

Access to mortgage is also an important instrument to create positive effect of land titling and one of the key reasons for selecting titles over other tenures. As de Soto is arguing the title as collateral will give access to credit that can be used in many other areas and therefor benefit the whole city’s economy. One example from Lima shows that only 24% of dwellers going through a land-titling program got mortgage loans but almost nothing was from private banks. There are similar examples from Turkey, Mexico and Colombia, in Argentina there is a case where only 4% of the households with titles in an area obtained credit. It seems like poor people with titles are not more likely to get credit from commercial banks despite a property title as collateral. There is also cases, for

example in Tanzania, where the dwellers do not want to seek credit by putting their property at risk, the fear of losing their property is too vast. Other reasons are the inhabitant's income, that either are too low or unstable, or that the property value does not increase. (Payne, Durand-Lasserve, & Rakodi, 2007)

The costs of titling depend on number of steps, such as land survey and registration processes. Tenures that have to be registered by a formal authority are expensive because of the administration and the use of professionals to create the right. In countries that does not have an efficient registration process the costs increase, in developing countries only about 10% of properties are registered. In a slum there are usually contradictory claims of ownership, which add an extra aspect that will take time to investigate, the costs to investigate this may even abrogate the gains of titling (Buckley & Kalarickal, 2006). The costs for an individual household are often too high even if it is subsidized meanwhile those who can afford often realize the market value and sell the property. In a case in Ecuador the cost of obtaining a title was 102% of an average household's annual income. (Payne, Durand-Lasserve, & Rakodi, 2007)

Payne summarizes the titling issue as: "It appears that, just as land titling has been heavily promoted for urban and peri-urban areas without a strong empirical foundation" (Payne, Durand-Lasserve, & Rakodi, 2007). And Buckley and Kalarickal states that "formal titling does not seem to be the most important first step to take in many places". (Buckley & Kalarickal, 2006)

3 Urban Shelter Design

Definitions of secure tenure

Land tenure security is by definition the right for all individuals and groups to have governmental protections against forced eviction and the risk to lose the economic benefits that flow through the land. It can also be defined as confidence that land users will not be deprived of the land rights they enjoy (UN-HABITAT, 2008). All land tenures include both rights and obligations. Property rights can be to occupy, use productively, exclude others, transfer, grant, develop, rent and benefit from property values. However secure tenure right does not have to include all possible rights. There can be restrictions in the rights, for example not

being allowed to rent or transfer the contract, or the development and use the land can be restricted.

Secure tenure can be formal and informal. Informal tenure can be from a customary or religious origin and are not registered. Formal tenures are freehold, leasehold or rental agreements with private or public authorities, they can be authorised and shaped in many different ways. As mentioned before secure tenure is not only a legal issue, it is a relative concept interpreted by the dwellers. Below are different cases described where land titling has not been used as a tenure method, the cases come from different continents with big differences in preconditions as well as outcomes but are used to exemplify other methods than full ownership. (Payne, 2001)

Innovative tenure structures

Usufruct in the Philippines

Usufruct has been used in the Philippines as tenure for new developments and resettlements. The method is to lease land from either the government or private property owners. The leases are between 25 to 50 years and for free and include almost every property right except ownership of the land and the right to rent out units without consent. An example is on parcels in Pingsama Village, Western Bicutan where a mid-rise dwelling was built on land owned by the city. The apartments were turned over to 60 dwellers that previously had lived in informal settlements. They had to pay a monthly amortization for 25 years for the cost representing the construction divided on the units. Effects on this have been that dwellers experience a tenure security as well as security from flooding and so on since these usufruct properties are established on safer grounds. It is also much cheaper to live in an apartment like these instead of other social housings since land cost usually represents a big part of the monthly costs. (Karaos, Nicolas, & Rabacal, 2011)

Regularisation in Brazil

Regularisation is an approach of secure tenure that does not include formal tenure in the traditional sense. It is a temporary method with the aim to be converted to a formalization process. The idea is to recognize informal settlements and upgrade

them to gradually until formality can be implemented. The town-planning scheme will include the definition of the zones, which will make them a formal part of the city and be included in development. Particularly it provides “blanket tenure security” which means it creates a psychological security even though there is no direct legal right to stay at the plot. However the zoning allows dwellings as land use, which means that they formally have the right to have their house there. Regularisation can also include an “occupation permit” that provides the dwellers proof that they occupy a specific residential unit. (Urban Land Mark, 2013)

In the Favela Bairro program the land tenure issue was an important part in a broad program for slum upgrading. The aim of the program is to integrate the informal settlements into the city’s social, economic and physical structure. The program also tried to deal with issues as gentrification and market-forced resettlements because of higher rents. The method was to give the right to use the land but not the full ownership. The favelas undergoing the program were declared as Special Social Interests Areas and had their own process and planning codes. The residents got a “concession of actual right to use” which permits use of the parcel but not full ownership. The reason is to keep the land in public ownership so displacement and marketization are avoided. This method is used in immediate relation to the upgrading process to prevent massive gentrification. In the long run the full legalisation will be undertaken on an individual level. (Handzic, 2009)

Intermediate tenure in Kenya

Intermediate tenures are local forms of tenures, are not statutory but a right-based approach. They provide means to improve security for a fixed period but do not include full property rights. An example is from Nairobi, Kenya, where the Temporary Occupation License was introduced to get good use of idle parcels. The locations of these parcels could be near intersections, road reserves or open-land on the outskirts of the city. The local authorities give permission for citizens to use the land and build semi-permanent structures, with an annual rent. The license can be renewable once a year so it gives authorities the long-term control of the area but meanwhile using it for a productive use. The method was initially used for commercial purpose but has also been used to supply dwellings.

This approach gives access to livelihood opportunities and services. It provides protection against forced eviction and encourage investments in households and neighbourhood. Furthermore it reduces land market distortions. (UN-HABITAT, 2008)

4 The Role of Surveyors

In a slum upgrading process there are many steps where land surveyors and planners have important roles. In any kind of formalization process it is important to register or at least have a map to get an overview of the area. Swedsurvey is the international agency of the Swedish national, mapping, cadastral, land registration authority, they have worked from the 1980's with providing land administration as prerequisites for improved living conditions. There is a wide range in the services they perform, from working with land policies and use, legislation, financial development and valuation to mapping and surveying. They work with processes to handle tenure, both informal and formal and changes in rights (Swedsurvey, 2014). There is thus a need for surveyors during the whole process of slum upgrading regardless what kind. In a process like the Intermediate Tenure Licences in Kenya there is a need to find the parcels, define them in a geographical information system, register the contracts and use, valuation of the parcel and at the same time this has to be done in an efficient way to keep administrative costs down. I think a very important task for surveyors is to keep the administration simple but also be enough advanced to fulfil the purpose of programs. Countries with working foundations, such as a good cadastral register can implement changes in property definition and rights in easier and cheaper ways.

5 Conclusion

Land titling has certainly been used as the main method to improve slum areas in the past and has been promoted from big international institutions and organisations. The reasons and arguments behind this approach have overall been political and based on macroeconomic arguments. Since the debate about self-help and titling has dominated the issue of helping developing countries to supply adequate housing for the poor, other methods have been neglected to some extent.

Furthermore the land titling method does not seem to have been questioned and the effects of it not taken into account. Land titling program affect many factors in the society, which are hard to predict and makes it a very complex model. The impacts depend on many factors and they have been both positive and negative, but overall there are limitations in meeting the needs of the urban poor. Furthermore it is a costly process that generates negative impacts of gentrification. The administration, costs, and detailed regulations might be too much for the dwellers and the authorities to handle in an efficient way

The innovative methods described above have in different ways handled problems with urbanization, slum upgrading and providing adequate housing to the urban poor. The initiatives are solutions to supply land in a secure and affordable way. The usufruct method used in the Philippines supply land free to dwellers with a formal security up to 50 years. The solution in Rio is similar since the land is given up for free, however the authorities do not provide the formal security in the same way. Both of these methods are part of larger slum upgrading projects and used as a way to cut costs for both dwellers and governments in the short-run. The approach used in Rio is a not the final solution, in a longer perspective the parcels are supposed to have individual titles. With this method the upgrading process can be done avoiding many of the negative aspects. The negative migration will not take place in the same extent and the costs for household will be less. Even in usufruct these negative aspects are much less likely to happen.

What all these methods miss compared to land titling is the use of the property as collateral. As previous titling projects have shown it is hard for low-income dwellers to get credit despite property titles. However instead of dismiss the opportunity to use tenure as collateral it must be more important to improve the financial systems and in that way improve the chances for credit. Even usufruct or long-term leases could be used and not only titles. To make this work would probably, as de Soto argues, decrease poverty but only together with other methods.

What kind of secure tenure solution to use depends on prerequisites from cultural, social and economic. In a region where land titling work well, with a functional property system, low costs and good access to mortgage land titling

would probably be preferred. However since there are many aspects that have to work together and it includes risks, intermediate methods and right-to-use might be a good step in the right direction towards freehold.

References

- Buckley, R. M., & Kalarickal, J. (2006). *Thirty years of World bank shelter lending: what have we learned?* Washington DC: The World Bank.
- Cities Alliance. (2014). *About Slum Upgrading*. Hämtat från <http://www.citiesalliance.org/About-slum-upgrading> den 05 05 2014
- Cohen, M. (2007). *Aid, Density and Urban Form: Anticipation Dakar*. Built Environment.
- de Soto, H. (2000). *The Mystery of Capital - Why capitalism succeeds in the west but fail everywhere else*. Basic Books.
- Galiani, S., & Schargrodsky, E. (2005). *Property Rights for the Poor: Effects of Land Titling*. Buenos Aires: Centro de Investigacion en Finanzas.
- Garau, P., Sclar, E. D., & Carolini, G. Y. (2005). *A Home in the City*. London: Earthscan.
- Handzic, K. (2009). Is Legalized Land Tenure Necessary in Slum Upgrading? Learning from Rio's land tenure policies in the Favela Bairro Program. *Habitat International*, 11-17.
- Jenkins, P., Smith, H., & Ping Wang, Y. (2007). *Planning and Housing in the Rapidly Urbanising World*. New York: Routledge.
- Karaos, A. M., Nicolas, G., & Rabacal, G. A. (2011). *Innovative Urban Tenure in the Philippines*. Nairobi: UN-HABITAT.
- Payne, G. (2001). Urban land tenure policy options: titles or rights? *Habitat International* 25, 415-429.
- Payne, G., Durand-Lasserve, A., & Rakodi, C. (2007). *Social and economic impacts of land titling programmes in urban and peri-urban areas: A review of the literature*. Washington DC: The World Bank Urban Research Symposium.
- Swedsurvey. (2014). *About Swedsurvey*. Hämtat från <http://www.swedsurvey.se/read-about> den 05 05 2014
- UN. (2013). *We Can End Poverty- Fact Sheet*. Hämtat från http://www.un.org/millenniumgoals/pdf/Goal_7_fs.pdf den 05 05 2014
- UN-HABITAT. (2008). *Secure Land Rights for All*. Nairobi: UN-HABITAT.
- Urban Land Mark. (2013). *Incrementally securing tenure in slum upgrading*. Johannesburg: Urban Land Mark.
- Varley, A. (2002). Private or public: debating the meaning of tenure legalization. *International Journal of Urban and Regional Research*, 449-461.