

INNOVATIVE URBAN TENURE IN THE PHILIPPINES

CHALLENGES, APPROACHES AND INSTITUTIONALIZATION



Innovative Urban Tenure in the Philippines:
Challenges, Approaches and Institutionalization

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ABBREVIATIONS

ADB	Asian Development Bank
APD	Area for Priority Development
BIR	Bureau of Internal Revenue
BP	Batas Pambansa (translation, “National Law”)
CA	Community Association
CAA	Civil Aeronautics Administration
CBO	Community-Based Organization
CCT	Condominium Certificate of Title
CDS	City Development Strategy
CELA	Certificate of Entitlement to a Lot Allocation
CISFA	Comprehensive and Integrated Shelter Finance Act
CLA	Certificate of Lot Award
CMP	Community Mortgage Program
CPQ	Certificate of Project Qualification
CTR	Certificate of Title Reservation
DAO	Department Administrative Order
DENR	Department of Environment and Natural Resources
DFID	Department for International Development
DPUCSP	Development of Poor Urban Communities Sector Project
DPWH	Department of Public Works and Highways
EO	Executive Order
FTI	Food Terminal Incorporated
GDP	Gross Domestic Product
GK	Gawad Kalinga (literal translation – “provision of care”)
GSHAI	Golden Shower Homeowners’ Association Inc.
GSIS	Government Service Insurance System
HFHP	Habitat for Humanity Philippines
HGC	Home Guaranty Corporation
HIGC	Home Insurance and Guaranty Corporation
HOA	Homeowners’ Association
HPFPI	Homeless People’s Federation of the Philippines, Inc.
HUDCC	Housing and Urban Development Coordinating Council
INA	Individual Notice of Award
JFPR	Japan Fund for Poverty Reduction
LCMP-PO	Luzon CMP PO Network
LGU	Local Government Unit
LHB	Local Housing Board
LIAC	Local Inter-agency Committee
LOG	Letter of Guaranty
LPIACH	Las Piñas Inter-agency Committee on Housing

MDF	Muntinlupa Development Foundation
MGB	Mines and Geosciences Bureau
MMDA	Metro Manila Development Authority
MO	Memorandum Order
MRI	Mortgage Redemption Insurance
MTPDP	Medium Term Philippine Development Plan
NAPC	National Anti-poverty Commission
NCR	National Capital Region
NSCB	National Statistical Coordination Board
NGC	National Government Center
NGCHC	National Government Center Housing Committee
NGO	Non-government organization
NHA	National Housing Authority
NHMFC	National Home Mortgage Finance Corporation
PBSP	Philippine Business for Social Progress
PCL	Purchase Commitment Line
PCUP	Presidential Commission for the Urban Poor
PHILSSA	Partnership of Philippine Support Service Agencies
Php	Philippine pesos
PIAC	Project Inter-agency Committee
RA	Republic Act
RD	Registry of Deeds
SHFC	Social Housing Finance Corporation
STEP-tUP	Strategic Private Sector Partnership for Urban Poverty Reduction
TESDA	Technical Education and Services Development Authority
UDHA	Urban Development and Housing Act
UHLP	Unified Home Lending Program
ULAP	Ugnayang Lakas ng mga Apektadong Pamilya sa Baybaying Ilog Pasig (translated: United Forces of Affected Families along Pasig River)
ULRTF	Urban Land Reform Task Force
UPA	Urban Poor Associates
UPAO	Urban Poor Affairs Office
UP-ALL	Urban Poor Alliance
UPSURGE	Urban Partnership for Sustainable Upliftment, Renewal, Governance, and Empowerment
UUPCRS	Upscaling Urban Poor Community Renewal Scheme
VMSDFI	Vincentian Missionaries Social Development Foundation, Inc.
WB	World Bank

EXECUTIVE SUMMARY

DESCRIPTION OF THE STUDY

In many poor and developing countries, land markets, prevailing policies, practices, and institutions limit many of the working poor's access to adequate land for housing and securing land tenure. The Philippines is one such country where patterns of urban growth and development make it difficult for the poor to remain in the cities where employment opportunities exist. Given the size of the urban poor population, a major challenge confronting development agencies, policymakers, and social actors concerned with addressing poverty is how to provide better access to secure housing tenure. Tools and strategies to increase the poor's access to secure land and housing tenure need to be devised.

The overall aim of this study is to contribute to the crafting of these tools and strategies. The study documents and culls lessons from the Philippines' experience in implementing alternative approaches to securing tenure for the urban poor, specifically the Community Mortgage Program, presidential land proclamations and the usufruct arrangement.

STUDY FRAMEWORK AND METHODOLOGY

The study consists of three main parts: 1) situational analysis of secure tenure issues in the Philippines; 2) presentation and analysis of actual cases representing three secure tenure approaches; and 3) analysis and findings on the key conditions and requirements for institutionalization.

The first part of the study consisted mostly of secondary data from local and international literature covering secure tenure practices, urbanization, land and housing issues in relation to the urban poor, the legal and institutional framework for securing land tenure in the Philippines and the capacities of various stakeholders for providing access to secure tenure. The second part made use of primary and secondary data collected on six actual cases of land tenure acquisition, two for each secure tenure approach. Data were collected through key informant interviews. The cases were described in terms of their specific features and institutional arrangements and analyzed in terms of their benefits, limitations and prospects for institutionalization. The third part of the study utilized the data and analysis derived from the case studies as well as additional data and insights generated from four focus group discussion and two multistakeholder validation workshops participated in by NGOs, urban poor leaders, finance institutions, development agencies, local and national government officials.

LAND AND TENURE ISSUES AND THE PHILIPPINE URBAN POOR

The population of the Philippines currently stands at 92 million, of which 63 percent live in cities and the urban areas. If the current trends prevail, the Philippines is projected to be 70 percent urban less than a decade hence, or an urban population of around 86 million. Consumer demand fuelled by the growth of industries and services have triggered higher demand for labour in the cities. Concomitantly, unregulated urban growth and acute poverty have resulted in severe housing problems, especially in the low-income sector. It is estimated that over 3 million urban poor households, or about 18 million people, have no legal land or housing tenure.

The huge housing deficit is attributed to the high cost of land and housing, relative to average household incomes, and existing land policies, among others. In the late 1970s, lands devoted to institutional use, as well as open spaces and residential use, particularly for the lower income groups, were reduced and converted to serve commercial and industrial needs.

Amidst the complicated and lengthy legal processes involved in securing tenure, a dynamic informal land market thrives. Squatting syndicates sell land rights to city dwellers who are unable to afford payments for buying and owning land, or even acquiring use rights, legally.

The complexity of the existing land administration system is seen to restrict access to legal tenure. Multiple institutions that manage the system have overlapping functions or implement inconsistent mandates. Problems associated with the system also include high transaction costs and the difficulty in obtaining land records. Some initiatives to reform the land administration system have been adopted, but majority are in the advocacy stage. Among the strategies that have been proposed to improve the land administration system are the harmonization of the registration system, ensuring that all types of tenure are recorded on public as well as private lands, improving alternative dispute resolution processes, and creating a unified land institution.

There are existing laws that support the provision of secure tenure to urban informal settlers, among them the Urban Development and Housing Act. This law mandates local governments to conduct land inventory, register informal settlers and allocate land for secure tenure. It also compels housing developers to provide land or funds for social housing. However, there is a need to further strengthen existing institutional arrangements to effectively implement these legal mandates.

THE STAKEHOLDERS

Constituting the stakeholders in the land and housing sectors are local governments, national housing agencies, NGOs, urban poor organizations, and land professionals, architects and engineers. A few local governments have initiated housing programmes providing secure tenure to the urban poor using their own resources and approaches. Others use the national land and housing programmes such as the Community Mortgage Program and organize communities to access these. A number forge partnerships with NGOs to do slum upgrading. Multilateral agencies such as the Asian Development Bank and the World Bank support the establishment of multi-stakeholder partnership mechanisms at the local level.

Various shelter agencies have adopted the provision of tenure security as a major thrust. The NHA provides tenure security to resettled communities, while the Social Housing Finance Corporation assists smaller communities to gain tenure in their existing sites.

Some NGO networks have helped communities resist illegal and forcible evictions and advocate better conditions in resettlement sites. A number assist in organizing communities to access government housing finance programmes such as the CMP.

Urban poor communities have formed issue-based movements and national coalitions to advance general urban poor causes. Land professionals, planners, architects and engineers are involved in land tenure programmes as individuals rather than as groups or professional associations. They usually serve as technical consultants to NGOs, communities, and local governments.

THE COMMUNITY MORTGAGE PROGRAM

Republic Act 7279 or UDHA adopted the Community Mortgage Program (CMP) as a component of the National Shelter Program to help legally organized associations of underprivileged and homeless citizens buy and develop land, and own lots they occupy or wish to relocate to “under the concept of community ownership.” Through the Social Housing Finance Corporation (SHFC) and from legislated budgetary appropriation, the CMP extends funds to the community association for the purchase of such lands. The CMP also offers loans for site improvement and house construction. Of the current housing approaches, the CMP gives the highest degree of land tenure security through ownership without necessitating the transfer of informal settlers to areas far from their employment and essential urban services.

But the CMP has some limitations. A community organization applying for a CMP loan has to comply with documentary and organizational requirements which could take several months to a few years to accomplish. Long processing times delay payments to landowners, prompting some to withdraw their offer to sell to the community associations.

Still, since its inception in 1989 up till May 2010, the CMP has assisted 217,929 households and disbursed Php8.5 billion in loan assistance.

PRESIDENTIAL LAND PROCLAMATIONS

The disposition of government-owned lands to their informal settler occupants through a land proclamation has been an established policy and practice in the Philippines for providing secure tenure to urban informal settlers. The proclamation usually takes the form of an executive order issued by the President. But some presidential proclamations also involve privately-owned lands which the national government could acquire through expropriation or a simple negotiated purchase, and then dispose to the intended beneficiaries.

Among the recognized benefits of presidential land proclamations are the simplification of the process of providing security to informal settlers from

“
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in 1989 up till May
2010, the CMP has
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households...***”

forced eviction and the facilitation of the provision of basic services to poor communities within a relatively short period of time. Meanwhile, the usual problem encountered in land proclamations is the slowness in the formal disposition of the land, which can be caused, by unclear institutional accountabilities and lack of funds for the survey works and land acquisition (in the case of private lands included in proclaimed areas).

Community organizations are a critical factor in facilitating the land disposition process. They build consensus within the community, negotiate with authorities on behalf of the community and help access resources from external groups for various community needs.

USUFRUCT

Usufruct is a peculiar property right that entitles beneficiaries to enjoy nearly all rights of ownership, except the right to have a legal title and to alienate, transfer or dispose property. Usufruct has provided in-city tenure to poor people in two Metro Manila municipalities, namely, Taguig and Muntinlupa. Resistance on the part of the beneficiaries was initially experienced as no land title would be awarded and the pressure to accommodate as many families as possible in areas under usufruct made them live in densely populated residential structures. However, they eventually accepted the arrangement through persuasion and the demonstration of the first successful project.

Community organizations were also formed and/or retained to function mainly as negotiators and amortization-collecting bodies protecting the overall welfare of fellow community members. Partnerships forged between project administrators and government and private institutions for concerns such as financing, livelihood, and social services have been credited for usufruct's accomplishments.

“*Usufruct is a peculiar property right that entitles beneficiaries to enjoy nearly all rights of ownership, except the right to have a legal title and to alienate, transfer or dispose property.*”



Families in a resettlement site line up for relief goods © John Lagman

MAIN FINDINGS AND CONCLUSIONS

There are benefits from institutionalizing the three alternative secure tenure approaches: the provision of tenure security and services in locations preferred by the urban poor, the enabling of the exercise of effective land management, and increasing the affordability of secure tenure. Among the factors that have worked for the successful implementation of alternative approaches are the use of simple, intermediate tenure instruments, non-ownership-based forms of tenure, public-private partnerships, national and local coordination, land management capacity of local governments, multiple sources of financing and community organization and participation.

But just as the intermediate instruments are seen to have simplified tenure regularization, among other positive developments, constraints and continuing challenges confront each approach. One of these constraints is the lack of integrated land policy and coordinated implementing institutions. There is also need to contend with some social, economic, and political realities for the institutionalization of secure tenure approaches to succeed. Counted among these are the declining supply of land and high land prices, high population growth, the existing laws on easements and danger zones, and the need to sustain subsidies for secure tenure.

Legal barriers to land access can be overcome by increasing the flexibility and transparency of land records. Overcoming institutional and governance barriers requires streamlining the complex arrangements for land registration, putting tenure and housing programmes under a single leadership, ensuring continuity across local government administrations, and enhancing local government capacity for land management.

Given that public resources alone cannot adequately meet the demand for secure land and housing, other fund sources should be tapped, namely, government-provided housing financing, community savings, microfinance, and cooperatives.

PROSPECTS AND CHALLENGES OF INSTITUTIONALIZATION

This study of the Philippines' experience in implementing three approaches for providing secure tenure – the Community Mortgage Program, presidential land proclamations and the usufruct arrangement – has underscored the benefits of designing simple, intermediate tenure instruments for providing the urban poor access to land rights. The three approaches surveyed in this study have been shown to deliver these benefits at different scales.

While the successful implementation of these approaches has been acknowledged, there are continuing challenges attendant to them for which ways toward institutionalizing the alternative secure tenure approaches have been identified. These are as follows: developing a land policy that would purposely increase poor people's access to land rights; codifying processes for securing tenure contained in existing laws; developing intermediate instruments and propagating their use through well-funded programmes and simplified tools and processes; integrating secure tenure schemes in city development processes; conducting city-wide land inventory and enumeration of informal settlers; developing housing finance schemes from public and private sources; and strengthening community organizations.

PART I

Situational analysis of secure tenure practices in the Philippines

1. TENURE APPROACHES IN THE CONTEXT OF GLOBAL TRENDS

The development and implementation of innovative tenure approaches for the urban poor in the Philippines have been occurring alongside similar developments in other countries. The innovative approaches that are the subject of this study, namely, the Community Mortgage Program (CMP), presidential land proclamations, and the usufruct arrangement, were developed largely in response to the growing number of informal settlements in Philippine cities and the increasing demands of their residents for services and secure tenure. After democracy was restored in 1986, successive Philippine governments were especially compelled to respond to these demands either politically, through presidential land proclamations, for example, or through institutionalized programmes like the CMP. In the early 1990s, the government began to tell the people about its provision of housing services in terms of “shelter security units,” mindful of the fundamental importance of secure tenure, in responding to demands for housing from the urban poor.

1.1 LAND RIGHTS AND SECURE TENURE

Practices elsewhere in the world informed this way of responding to the housing needs of informal settlers in the cities. Over the past 20 years, particularly in the last decade, considerable experience in developing innovative approaches to land management, tenure policy, and housing provisions has been gained internationally, due to the efforts of poor communities, voluntary organizations, aid agencies, and the governments of many developing countries. The appreciation of the problem of the dismal state of housing of the world’s impoverished people has broadened and deepened towards recognizing the central role of land rights and the provision of secure tenure, as key factors in expanding access to improved housing. This new understanding has led to the realization that the flawed management of urban land, rather than the physical paucity of land for housing the poor, is the problem.¹ Given the many successful experiences in upgrading housing since the 1970s, the importance of secure tenure came to be recognized more firmly.² Moreover, increasing evidence has shown that the provision of secure rights to land has had a positive impact on helping poor people, especially the women, rise out of poverty.³

“Given the many successful experiences in upgrading housing since the 1970s, the importance of secure tenure came to be recognized more firmly.”

¹ Somsook Boonyabancha, “Land for housing the poor—by the poor: Experiences from the Baan Mankong nationwide slum upgrading programme in Thailand,” in *Environment and Urbanization*, vol. 21, no. 2, 309.

² David Satterthwaite, “Getting Land for Housing: What Strategies Work for Low-Income Groups?” in *Environment and Urbanization*, vol. 21, no.2 (October 2009), 304-305.

³ UN-HABITAT, “Secure Land Rights for All” (Nairobi: UNON-Publishing Services Division, 2008),19.

Out of this realization of the critical role of land rights in the provision of humane housing and, more broadly, in poverty reduction, have emerged innovative approaches for securing land rights for poor people. The more conventional and static emphasis on ownership and titling has given way to an understanding of land rights as a continuum providing varying degrees of land and housing security.⁴

1.2 INNOVATIVE APPROACHES TO SECURE TENURE

Following this emergent concept of a continuum of land rights, there has been a vigorous search for new approaches to unlocking the presently restricted access of poor people to secure land and housing. This search has taken place through the exploration and expansion of the application of various types of non-formal, including customary, tenure.

Combining customary and statutory tenure was an approach tried in Benin, where it enabled poor households to build housing in areas under customary ownership. Customary rights could be registered at a lower cost, as shown in Ethiopia, Mozambique, and Benin.⁵

In Bolivia, on the other hand, the largely informal arrangement known as the *anticretico* system has enabled poor families to rent affordable housing. This approach has gained recognition as a possible first step toward a tenants owning their rented dwellings. Thus, customary tenure systems can be a steppingstone to gaining formal tenure.

In many sub-Saharan African countries, customary tenure is a common way of accessing land. Customary land secretariats in Ghana record land rights, undertake land surveys to mark out development plots, collect rents, draw up land leases, and facilitate their registration.

Still other approaches have sought to formalize previously informal types of tenure through institutionalized land and housing programmes for the poor. In the Philippines, the formalization of the tenure of informal settlements on privately-owned lands has been achieved through a transfer of land ownership facilitated by government-provided financing under the Community Mortgage Program. CMP developed as a result of the need to resolve land tenure problems faced by communities threatened with eviction.⁶

The massive titling programme of Organismo de la Formalizacion de la Propiedad Informal—in Peru was one ambitious attempt to implement titling on a large scale through the formal registration of non-registered titles and the registration of vacant, untitled, government-owned lands adjacent to urban areas.⁷ In Argentina, the physical and legal regularization of informal settlements was the objective of the Programa de Mejoramiento de Barrios Settlement Upgrading Programme implemented in 21 provinces.⁸ Other examples of regularizing tenure in a major way include Indonesia's Kampung Improvement Programme and Pakistan's Katchi Abadies.

⁴ *Ibid.* 5 ff. See also Geoffrey Payne, *Land, Rights and Innovation* (London: ITDG Publishing, 2002).

⁵ *Ibid.*, 21.

⁶ Arsenio Balisacan, "Raising living standards of the urban poor," in *A Strategy to Fight Poverty (East Asia and Pacific Region: The World Bank Country Operations Division, March 1996)*, 23-32.

⁷ UN-HABITAT, "Secure Land Rights for All", 7.

⁸ Florencia Almansi, "Regularizing land tenure within upgrading programmes in Argentina: The cases of Promeba and Rosario Habitat," in *Environment and Urbanization*, vol. 21, no.2, 389-414.

The development of intermediate tenure instruments has become a practical and effective strategy, not only for providing some degree of shelter security, but also for providing access to basic urban services like water, sanitation, garbage collection, electricity, drainage, and transport. The existence of laws that affirm the people's right to housing and basic services can provide a platform for the development of such instruments.

The Constitution of Brazil entitles residents of *favelas* (poor settlements) on private lands to adverse possession rights. Brazil's tenure policy is therefore based on the principle that the recognition of housing rights should not be based on ownership. The country's Concession of the Real Right to Use (CRRU) has been applied in the regularization of *favelas* in public areas. The tenure regularization programmes in Porto Alegre and Recife, cities with strong participatory governance systems, in fact, do not favor the privatization of public land because of the possibility that doing so could undermine the objective of tenure regularization.⁹ Privatizing land could lead to gentrification, with the original occupants' either voluntarily or involuntarily leaving the regularized settlement. This same concern over the possible negative effects of privatizing land has led some local government units (LGUs) in the Philippines to resort to usufruct arrangements which allow LGUs that own lands to provide housing to low-income families, without relinquishing these LGUs' ownership and control of the land. This strategy has also enabled these local governments to offer housing to poor families at a lower cost.

In Bogota, Colombia, a variety of intermediate tenure instruments has made it possible for residents of illegally built subdivisions to demand services and the improvement of their living conditions, even without owning formal titles to the land.¹⁰ The issuance of presidential land proclamations in the Philippines has sought to provide some degree of tenure security to the residents of informal settlements, mostly involving public lands. The granting of land titles which, in most cases, is the ultimate goal of these land proclamations, takes many years. In the meantime, certificates of lot awards or certificates of entitlement to a lot award are provided as documentary proof of a right to formal tenure. These intermediate tenure instruments have not been fully institutionalized and are not widely recognized outside the projects where they are issued. Nevertheless, they do provide some measure of perceived security on the part of the residents. In some cases, they have led to the grant of formal land titles.

1.3 THE IMPORTANCE OF CONTEXT

Contextual conditions in the socio-economic, policy, and institutional environment either facilitate or hinder the application of particular approaches aimed at assisting poor people in gaining secure land tenure. Whether land is predominantly privately-owned or under the control of the state expands or restricts the scope of applying certain approaches. Similarly, the existence of democratic systems of governance, of institutions that support people's processes, and of laws that recognize the rights of poor people permits the application of approaches that would otherwise

⁹ Edesio Fernandes, "Combining Tenure policies, urban planning and city management in Brazil," in *Land, Rights and Innovation*, ed. Geoffrey Payne (London: ITDG Publishing, 2002), 209-232.

¹⁰ Nora Aristizabal and Andres Ortiz Gomez, "Are services more important than titles in Bogota?" in *Land, Rights and Innovation*, ed. Geoffrey Payne (London: ITDG Publishing, 2002), 100-113.

not be feasible in countries where, for instance, public institutions are weak or non-functioning. In the Philippines, organizations of the urban poor lobbied for the enactment of the Urban Development and Housing Act in 1992, which established legal safeguards against forced evictions and mandated the implementation of social housing programmes for informal settlers. This law gave stronger legal basis and additional incentives to presidential land proclamations and programmes such as the CMP.

Certain approaches depend on the existence of community organizations or cooperative associations that have the capacity not only to interact with institutions, but also to ensure cohesion in the community and the faithful observance of rules and regulations. Strong community organizations and savings groups have been instrumental to the success of the housing initiatives of the Homeless People's Federation of the Philippines and the CMP, as well as the Baan Mankong nationwide slum upgrading programme in Thailand. Developing effective secure tenure approaches thus requires taking into account these contextual factors.



Informal settlers rally in Makati City

© John Lagman

2. LAND AND TENURE ISSUES AND THE URBAN POOR

The Philippines is the fourth most populous nation in East Asia after China, Indonesia, and Japan. Growing at an average rate of 2 percent annually, the population currently stands at 92 million. An estimated 63 percent live in cities and urban areas, compared to 36 percent in Thailand and 43 percent in Indonesia. In the last 50 years, urban population growth in the Philippines averaged 4 percent, making it one of the most highly urbanized developing countries.

2.1 PHILIPPINE URBANIZATION

Metro Manila or the National Capital Region (NCR) is the largest urban center in the Philippines. In 2007, its 16 cities and one urban municipality together registered a population of 11.6 million, which represented 13 percent of the national population. From 2000 to 2007, NCR's population increased at an annual rate of 2.11 percent. With around 18,200 persons per square kilometer on land making up only 0.2 percent of the country's total area, the NCR is the most crowded urban area in the country. Other cities outside the capital have also experienced significant increases in their populations. Within the period 2000 to 2007, Cebu City in the Visayas and Davao City in Southern Mindanao had annual population growth of 1.5 percent and 2.4 percent, respectively.

If the current trends prevail, the Philippines is projected to be 70 percent urban in less than a decade, which translates to an urban population of around 86 million. Over half of the projected increase would be accounted for by natural growth, despite the latter's decreasing rate. Rural in-migrants, although hard to measure, will also comprise a significant portion of urban population growth. Agricultural underdevelopment, natural calamities, and a persistent armed conflicts in the countryside are among the reasons behind the movement of people into the urban centers. Additionally, as the transition from an agrarian to industrial economy continues, the incorporation of currently rural settlements into the urban area would also cause the urban population to swell. From only 21 in 1970, the number of cities in the Philippines grew to 120 by 2009.¹¹

The forces of urbanization, i.e., geographic agglomeration and the concentration of labor and capital in the cities, are inextricably linked with economic growth. Back in 1960, the Philippines was 30 percent urban and had the second-highest per capita income in Asia, surpassed only by Japan. In the decades that followed, however, the country's economic performance did not correspond with the increasing urbanization level. The per capita

“*In the last 50 years, urban population growth in the Philippines averaged 4 percent, making it one of the most highly urbanized developing countries.*”

¹¹ The Philippines is an archipelago composed of three major island groups: Luzon, the Visayas, and Mindanao. Metro Manila is in Luzon.

GDP of the Philippines has since lagged behind South Korea, Malaysia, Thailand, China, and, until recently, Indonesia. From an annual per capita growth of 2.7 percent until 1973, the rate dropped to an average of 0.6 percent per annum during the period 1973 to 1998, lower than every other East Asian country apart from North Korea. The period from 1998 to 2005 saw a slight recovery of between 1 and 2 percent, still lower compared to those of its neighbors.¹²

As urbanization proceeded, consumer demand fuelled by the growth of industries and services also triggered a higher demand for labour in the cities. The contribution of agriculture as a proportion of GDP decreased substantially from around 25 percent in the early 1980s, to only 15 percent in 2009. On the other hand, in 2009, growth in industries and services constituted the major contributors to GDP, at 54 percent and 31 percent, respectively. The NCR on the average produces 30 percent of domestic output and income, while the adjacent Southern Tagalog region contributes 16 percent.¹³

2.2 URBAN POVERTY

While poverty in the Philippines remains a largely rural phenomenon, the incidence of urban poverty has been rising. A United Nations report noted that urban poverty rose to 24.9 percent in 2003, indicating a sharp increase of 7 percent vis-à-vis its level in 1997.¹⁴ Moreover, according to the National Statistical Coordination Board (NSCB), families living in the urban areas require incomes 20 percent higher than do families in the rural areas. In 2006, the number of families in Metro Manila with incomes below the monthly per household (family of five members) poverty threshold of Php8,569 (US\$190) was 167,316, equivalent to 7.1 percent of the region's total household population. The unemployment rate in the region has also been the highest among the country's 16 administrative regions, thus far. Of its labor force of 8 million, 12.8 percent were unemployed in 2009.¹⁵

Unregulated urban growth and acute poverty have resulted in severe housing problems in the Philippines. Of the roughly 10 million Filipino families living in cities today, an estimated 3.1 million suffer from lack of security of tenure. They occupy government-owned lands, idle, privately-owned properties, and danger areas such as riverbanks, bridges, and railroad tracks. Without de facto tenure security, families in illegal and poorly-planned communities are under constant threat of eviction. Data from the National Housing Authority (NHA) in 2007 placed the number of informal settler households at over 544,000, or approximately 2.7 million persons, in Metro Manila alone. This represents roughly a fourth of the entire population of Metro Manila.

¹² *The World Bank, East Asia and Pacific Sustainable Development on the Urban Fringe: Philippines Country Report* (n.p., 2006), 6.

¹³ Joel V. Mangahas, "The Philippines," in *Urbanization and Sustainability in Asia: Good Practice Approaches in Urban Region Development*, ed. Brian Roberts and Trevor Kanaley (Manila: Asian Development Bank, 2006), 275.

¹⁴ *United Nations Country Team, paper presented at the 2008 Philippines Development Forum, Clark, Pampanga, 26-27 March*; available from http://pdf.ph/downloads/2008%20Philippine%20Development%20Forum_as%20of%2026%20mar%20vercofcFINAL.pdf; Internet; accessed 6 February 2010.

¹⁵ *National Statistics Office (NSO), "2009 Annual Labor And Employment Status," 21 January 2010*; available from <http://www.census.gov.ph/data/pressrelease/2010/pr1038tx.html>; Internet; accessed 2 February 2010.

The huge housing deficit, especially in the case of the low-income sector, is a result of the high cost of land and housing, relative to average household incomes. Most of the urban poor have jobs in the informal sector, but their income is too small to legally acquire land and housing. According to a World Bank report, the cost of secure housing in the Philippines is 58 percent higher than housing in untitled lands.¹⁶ Slums in danger zones where households have median monthly household incomes that are 57 percent lower than the poverty threshold for Metro Manila, represent the worst off segment of the landless urban poor.¹⁷ Meanwhile, the value of areas near employment centers and those with commercial potential has continued to increase by as much as 6,000 percent compared to the previous years.¹⁸

2.3 URBAN POOR ACCESS TO LAND

The urban poor have limited access to urban land under existing land policies. Urban land conversion and development have been mainly private sector-led. In the late 1970s, huge private sector developments in Metro Manila, such as gated villages, commercial establishments, shopping malls, office centers, and other leisure type projects catering to mostly upper middle- and high-income groups, began occupying large tracts of land. On the other hand, lands devoted to institutional use, as well as open spaces and residential use, particularly for the lower income groups, were reduced and converted to serve commercial and industrial needs.

Given the magnitude of the problem of urban homelessness, government policy has also sought private sector participation in the delivery of social housing. Developers of economic housing are required to allocate 20 percent of the value or land area of their subdivision projects to social housing.

As a consequence of the complicated and lengthy legal processes involved in securing tenure, a dynamic informal land market thrives. The system operates by exchanging “land rights” or the right to use land without the benefit of a formal title. This system is largely run by squatting syndicates that sell land rights to city dwellers who are unable to afford payments inherent to buying and then owning land, or even acquiring use rights, through legal means. Because the informal market provides the cheapest alternative short of a title, many poor and sometimes even non-poor families forge legally precarious pacts with land syndicates.

2.4 LAND ADMINISTRATION AND MANAGEMENT

Access to legal tenure is widely seen to be restricted also by the complexity of the existing land administration system. A dual system of land titling exists in the Philippines – administrative and judicial. The land administration system is governed by multiple laws, regulations, processes and standards, managed by multiple institutions, some of which have overlapping functions or implement inconsistent mandates. It is claimed that the inefficiency of

“ Given the magnitude of the problem of urban homelessness, government policy has also sought private sector participation in the delivery of social housing. ”

¹⁶ The World Bank, *World Development Report 2009: Reshaping Economic Geography* (Washington, D.C.: The World Bank, 2009), 218.

¹⁷ Asian Development Bank, *Metro Manila Urban Services for the Poor Project (TA 3760 PHI Final Report)*. (Manila: ADB, 2002), quoted in *The World Bank, East Asia and Pacific Sustainable Development on the Urban Fringe: Philippines Country Report* (n.p., 2006), 13.

¹⁸ David T. Yap et al., “The Impact of Land Values on the Housing Situation in the Philippines,” in *Urban Research Consortium Research Digest 3* (July 2002), 12.

the land administration system contributes to the inefficiency of the land market in the Philippines.¹⁹ Among the problems associated with the currently complex land administration system which inhibits access to land tenure are high transaction costs involved in registering and transferring lands, difficulty of obtaining land records and information, susceptibility of the system to graft and corruption which in turn leads to the perceived unreliability of land information and transactions. These factors make it difficult for people to gain formal land tenure.

There have been initiatives to reform the land administration system. Some of these initiatives have been adopted (such as the newly legislated Free Patent Law) while the majority are still in the advocacy stage. These proposed reforms focus on land administration, public land management, property valuation and taxation, land information and management, and institutional development and capacity building.²⁰ Among the strategies envisioned to improve the land administration system are the harmonization of the registration system, ensuring that all types of tenure are recorded on public as well as private lands, improving alternative dispute resolution processes and creating a unified land institution. Other strategies to be pursued are decentralization of land management, adopting uniform valuation standards, reforming tax collection of local governments, improving land valuation data capture and transfer, and having a unified land information system for local governments

2.5 SECURE TENURE AND HOUSING

Within the policy framework of government, providing access for the urban poor to land and secure tenure has fallen within the purview of the government's housing programme. The government's "National Shelter Program" has been designed primarily to address the need of urban informal settlers for secure land and housing tenure as a means for alleviating poverty. The government's housing programme targets are in fact measured in "shelter security units" (SSUs) to underscore the fact that the program's goal is to provide security of tenure to the Philippine urban poor.

According to the Medium Term Philippine Development Plan (MTPDP) for 2005-2010, the projected housing need for that period was 3.7 million units.²¹ Of this number, around 1.2 million, or 31%, comprise what is termed the "housing backlog" or the unmet need for housing in previous years. The MTPDP targeted the delivery of 1,145,688 SSUs for 2005-2010, which comprised less than a third of the estimated housing need for the same period, implying that the private sector was expected to cover the balance.

¹⁹ Danilo R. Antonio, "Instituting good governance in the land administration system – the Philippines' perspective," in *Land Reform, Land Settlement and Cooperatives* (2006), 75.

²⁰ Allan V. Barcena, "The Land Sector Development Framework," powerpoint presentation at the National Land Sector Summit, May 28, 2010, Heritage Hotel, Makati City.

²¹ The data presented in this section were taken from the study "Civil Society Assessment of the MTPDP Performance in Housing," by the Partnership of Philippine Support Service Agencies and John J. Carroll Institute on Church and Social Issues, 2009.

TABLE 1: Estimated housing need, 2005-2010

Category	Units
Housing backlog as of 2005	1,170,800
• Doubled-up housing	387,315
• Replacement/informal settlers	588,853
• Homeless	8,298
• Substandard (needs upgrading)	186,334
New households (due to population growth 2005-2010)	2,585,272
Total	3,756,072

Source: HUDCC, *Medium Term Philippine Development Plan 2005-2010*

Metro Manila has the highest concentration of informal settlers who are found in privately-owned lands, government land and danger areas.

TABLE 2: Informal settlers in Metro Manila by category

Classification	Number of households	Percentage
Danger areas	107,997	19.83%
Areas earmarked for government infrastructure	35,198	6.46%
Government owned lands	179,653	32.99%
Privately owned lands	219,457	40.30%
Areas for priority development	2,304	0.42%
Total	544,609	100%

Source: NHA, as of September 2007

Of the 1.1 million shelter security units the government planned to deliver, 68% fell under the category of socialized housing which by definition is housing that is low-priced and caters to the bottom 40% of the population.

TABLE 3: Housing targets, 2005-2010

Housing package	Number of units	Percentage
Socialized (below PhP 225,000)	780,191	68.10%
Low Cost (PhP 225,000-PhP2M)	365,282	31.80%
Medium (PhP 2M – PhP 4M)	195	0.01%
Total	1,145,668	100%

Source: HUDCC, *Medium-Term Philippine Development Plan 2005-2010*

Four major housing programmes have been tasked to deliver 74% of the total socialized housing target aimed at urban informal settlers. The regularization of housing tenure is the primary goal of these programmes which are directed at four distinct subgroups. The resettlement programme assists families displaced by large infrastructure projects, mostly in and near Metro Manila. The Community Mortgage Program (CMP) is directed at small and medium-sized informal settler communities inhabiting privately-owned lands whose owners are willing to sell their property. Presidential proclamations cover informal settlers occupying government-owned lands which have not been used for the purpose for which they were acquired or allocated. Finally, government and private sector employees who want to buy land and/or construct or improve a house apply for the housing loans provided by government pension funds and financial institutions.

“Four major housing programmes have been tasked to deliver 74% of the total socialized housing target.”

The annual performance of the three key socialized housing programmes is presented in Table 4 below. These three programmes account for 54% of the total socialized housing target for 2005-2010, which aim primarily to provide secure tenure to urban informal settlers. Although the actual performance of the three programmes were all below target, the Community Mortgage Program and presidential proclamations fared relatively better compared to the resettlement programme. The combined total deliveries of the two programmes which provide tenure **on site** were twice that of resettlement. These figures suggest that as far as national government programmes are concerned, there has been increasing support for on-site tenure regularization.

Figure 2.5: Map of Metro Manila, home to almost 12 million people



Source: <http://en.wikipedia.org/>

TABLE 4: Annual performance of major social housing programmes

Year	Number of shelter security units provided/ households assisted by each socialized housing programme								
	Resettlement			Community Mortgage Program			Presidential Proclamation		
	Original MTPDP Targets	HUDCC Adjusted Targets	Actual	Original MTPDP Targets	HUDCC Adjusted Targets	Actual	Original MTPDP Targets	HUDCC Adjusted Targets	Actual
2005	22,900	22,900	16,960	15,360	15,360	14,199	35,000	35,000	11,784
2006	21,100	21,100	15,390	15,860	15,860	13,783	35,000	35,000	21,782
2007	19,900	19,900	28,655	15,625	15,625	11,822	35,000	35,000	51,668
2008	19,000	29,256	36,830	16,510	9,422	9,169	35,000	5,000	6,504
2009	17,700	45,268	9,244 ^a	16,750	9,422	3,716 ^a	35,000	5,000	1,495 ^a
2010	16,500	46,140	-	17,920	9,422		35,000	5,000	-
TOTAL	117,100	184,564	107,079	98,025	75,111	52,689	210,000	120,000	93,233
vs orig target			91.4%			53.8%			44.4%
vs new target			58.0%			70.1%			77.7%

Source: HUDCC (as of June 2009) ^a Figures for 2009 are for January – June 2009

Note: The number of families assisted by each programme is determined as follows: 1) for resettlement, by the number of families awarded resettlement lots and/or housing units; 2) for CMP, by the number of beneficiary families of loans taken-out; 3) for presidential proclamations, by the number of families awarded Certificates of Entitlement to a Lot Award (CELAs).

3. THE INSTITUTIONAL FRAMEWORK

The delivery of housing services is undertaken by the government and the private sector through the participation of several public and private institutions, categorized as follows.

3.1 THE HOUSING BUREAUCRACY

The housing bureaucracy in the country is headed by the Housing and Urban Development Coordinating Council (HUDCC), which is the highest policy-making and coordinating government office on shelter. It monitors and coordinates all the programmes and services of the different shelter agencies and takes charge of the implementation of the Presidential Land Proclamations. The National Housing Authority (NHA), for its part, coordinates with local government units in the implementation of resettlement programmes, particularly the construction of houses for the poor and low-income families. Through membership and funds mobilization in the Home Development Mutual Fund, also known as the Pag-IBIG Fund, salaried and self-employed workers are provided financing for affordable housing units, while generating savings at the same time. The National Home Mortgage Finance Corporation (NHMFC), meanwhile, utilizes long-term funds provided by lending institutions such as the Social Security System, the Government Service Insurance System (GSIS), and the Pag-IBIG Fund to purchase mortgages offered by private and public institutions. The NHMFC also administers programmes catering to the poor and low-income families, namely, the Abot-Kaya Pabahay Fund and the CMP, which was later transferred to NHMFC's subsidiary, the Social Housing Finance Corporation (SHFC). The Housing and Land Use Regulatory Board (HLURB), on the other hand, plans and regulates land use and development, enforces subdivision and land use standards, and encourages greater private sector participation in low-cost housing.

Government intervenes in the housing market through its regulation of land use and land tenure. Private developers intending to develop raw land for housing must secure permits and clearances from the HLURB and the local governments concerned.

The HLURB's regulatory functions are specified in various directives. It enforces real estate and housing laws, rules, standards, and guidelines through the approval or non-approval of condominium and subdivision plans, and the issuance of Licenses to Sell. The agency also issues sales and mortgage clearances for the protection of the rights of tenants in the urban and land reform zones, and on the areas for priority development. It updates and revises rules, guidelines, and standards for housing and real estate for residential subdivisions and condominiums, and economic and socialized housing projects. HLURB likewise serves as the lead agency of

the Socialized Housing One-Stop Processing Centers, which issue permits, clearances, certifications, and licenses for the implementation of socialized housing projects.

Meanwhile, the UDHA authorizes LGUs to enforce certain regulatory and licensing powers pertinent to housing concerns. For its part, HLURB assists LGUs through training and consultations on processing and approval of subdivision plans and development permits. The local legislative councils approve subdivision plans and development permits.

Table 5 below shows the latest data on the accomplishments of each of the housing agencies from 2001 to 2009.

TABLE 5. Accomplishments of key shelter agencies: 2001 to 2009²²

Key shelter agencies	Accomplishments
HUDCC	An estimated 255,600 families benefited from 111 proclamations declaring over 27,300 hectares of government land as housing sites. In addition, 63,400 beneficiaries of the proclamations or 25 percent of the total number of families covered by the proclamations were granted Certificates of Lot Awards.
NHA	The NHA developed 34 resettlement sites in Metro Manila, Bulacan, Pampanga, Cavite and Laguna. The 84,111 housing units produced indicated that an additional 122,364 poor families benefited from other programmes of the NHA such as core housing, medium-rise housing assistance, slum upgrading, sites and services development, and the legalization of the tenure rights of qualified occupants of government housing units.
HDMF	Housing loans valued at Php156.5 billion (approx. US\$3.4 billion) were released. Of this amount, Php139.45 billion (approx. US\$3.1 billion) went to end-user financing, while Php17.8 billion (approx. US\$395 million) was dedicated to developmental or institutional loans. There were over 312,100 residential lots built or purchased by Pag-IBIG Fund members through housing loans.
NHMFC and SHFC	Some 24,482 families acquired homes through loans from the Development Bank of the Philippines (DBP), the Land Bank, Social Security System, and GSIS. SHFC's records show that 102,632 families acquired lots through 885 CMP projects taken out at a cost of Php4.96 billion (approx. US\$110 million).
HLURB	The agency approved the development and sale of 1,143,982 housing units covered by 16,903 Licenses to Sell.

Source: National Home Mortgage Finance Corporation, "State of the Nation Address, Accomplishments on Housing 2009"

The efforts of these offices are complemented by those of other government agencies such as the Department of Finance, the National Economic Development Authority (NEDA), the Department of Public Works and Highways (DPWH), the Department of Interior and Local Government, and the Metro Manila Development Authority (MMDA), among others.

²² National Home Mortgage Finance Corporation, "State of the Nation Address- Accomplishments on Housing 2009", available from http://www.nhmf.gov.ph/index.php?option=com_content&view=article&id=103:stateofnationaddress2009&catid=4:news; Internet; accessed December 2009.

3.2 LOCAL GOVERNMENT UNITS

As stipulated in the UDHA and as directed by the Local Government Code of 1991, Local Government Units are also key stakeholders in the provision of socialized and low-cost housing. The UDHA gave local governments the primary responsibility of providing housing services to “underprivileged and homeless citizens.”

According to the 2007 census, the Philippines has a total of 120 cities, 350 urban municipalities (those with more than 15,000 residents) and 14 principal urban municipalities (those with more than 500,000 residents).²³ Although each of these cities and urban municipalities is mandated to carry out land and housing programmes for the urban poor in their respective localities, only a handful of LGUs have actually done so, among them Naga City and Davao City. On the other hand, Las Piñas, Marikina, Quezon City, and Caloocan City in Metro Manila have tapped national housing programmes such as the CMP to provide secure tenure to their informal settlers.

An Executive Order issued by President Arroyo in 2008 instructed cities to create local housing boards (LHBs), principally to oversee and regulate the implementation of informal settler eviction to ensure compliance with the UDHA.²⁴ Their broad mandate is to address shelter concerns through the formulation, development, and implementation of a comprehensive and integrated housing and land development programme, as stipulated in the UDHA. The LHB is usually chaired by the Mayor, with the Vice-Mayor as co-chair. Members of the board include the Chairman of the Committee on Housing from the City Council, the heads of Planning and Engineering, and one representative each from HUDCC, the Presidential Commission for the Urban Poor (PCUP), People’s Organizations (PO), Non-government Organizations, and the private sector.

In Metro Manila, Pasay, Mandaluyong, Malabon, Quezon City, Muntinlupa, Caloocan, and Navotas are some of the cities with functioning LHBs. Outside the metropolis, there are Naga City, Dumaguete City, Sta. Rosa (Laguna), and San Fernando City (La Union). These LHBs also monitor the provision of housing and resettlement areas, and the observance of procedures and requirements during evictions and the demolition of houses of underprivileged city residents.

Some local government units have set up Urban Poor Affairs Offices (UPAOs) directly under the Office of the Mayor, to serve as main policy implementers. Representatives of UPAOs also sit as members of the LHB. The UPAOs enforce the policies drawn by the LHBs. The UPAOs of Pasay, Muntinlupa, and Las Piñas, in particular, coordinate all efforts and functions pertaining to complaints, assistance, and the upliftment of the urban poor, including the speedy implementation of the programmes/projects of government and non-government organizations for the sector. Quezon City’s UPAO and Marikina’s Settlements Office, on the other hand, conduct land surveys and censuses, and act as CMP originators. Valenzuela’s Housing and Resettlement Office also oversees and monitors actual demolitions, relocations, and resettlement operations in the city.

²³ National Statistical Coordination Board, 2007 s.v. “Cities and Municipalities”.

²⁴ Executive Order 708 dated February 26, 2008, “Devolving the functions of the PCUP as the clearing house for the conduct of demolition and eviction activities involving the homeless and underprivileged citizens to the local government units with PCUP retaining its monitoring and reporting units”.

“*The Philippines has a total of 120 cities, 350 urban municipalities (>15,000 residents) and 14 principal urban municipalities (>500,000 residents).*”

International development agencies look at local government units as partners in their urban reform efforts. For instance, Asian Development Bank in the Philippines packaged two technical assistance and loan projects for local governments: the Metro Manila Urban Services for the Poor Project (MMUSP) and the Development of Poor Urban Community's Sector Project (DPUCSP). MMUSP addressed the housing needs of the urban poor within Metro Manila, while DPUCSP attended to the needs of the urban poor outside the metropolis from 2003 to 2008. These projects sought to develop the capabilities of the key housing agencies, LGUs, and the urban poor communities so they could work together on shelter projects. HUDCC served as the executing agency for both undertakings and was primarily responsible for overall sector policy actions and coordination. It also chaired the Project Supervisory Committee.

The technical assistance component of the MMUSP commenced in 2005, but the loan programme failed to obtain the approval of the Philippine government. The first set of target cities included Quezon City, Taguig, Muntinlupa, and Marikina. However, the national government did not approve the project because of concerns raised regarding the capacity of the implementing institutions, the distribution of risks between the national and local governments, and certain problems concerning the ownership of the proposed sites in the pilot cities.

3.3 THE METRO MANILA INTER-AGENCY COMMITTEE

The Metro Manila Inter-agency Committee (MMIAC) was created through Executive Order No. 803 on 21 May 2009, to undertake a comprehensive shelter programme for Metro Manila's informal settlers affected by priority government infrastructure projects or those living in danger zones. It is composed of the MMDA, which serves as chair, and the NHA, which serves as vice chair. The following agencies are represented in the committee: HUDCC, PCUP, the National Anti-poverty Commission, DPWH, the Department of the Interior and Local Government, the Office of the President-External Affairs, and the Department of Budget and Management. One representative from the urban poor identified by the MMIAC²⁵ also sits in the committee.

MMIAC has conceptualized different housing development strategies, namely: on-site development, medium-rise housing, off-site resettlement, off-site private or formal housing through the Pag-IBIG Fund or private developers, and other shelter-related institutions such as the "workers' inn" or homes for transients, temporary shelters, and institutional home care centers.

3.4 HOUSING FINANCE INSTITUTIONS

The provision of housing finance is an important enabling strategy adopted and implemented by the government through lending programmes administered by its various financial institutions. The HDMF or Pag-IBIG funds the Local Government Housing Program by extending direct loans to LGUs for land acquisition and development, including the construction

²⁵ "PGMA creates inter-agency committee to come up with shelter programme for Metro Manila settlers", available from www.gov.ph/index2.php?option=com_content&do_pdf=1; Internet; accessed December 2009.

of housing units. Its Expanded Home Lending Program provides financial assistance to HDMF members through house, lot, or house and lot loans. It used to implement the Group Land Acquisition and Development Program that allowed an organized group of at least 30 Pag-IBIG members of a cooperative or homeowners' association to obtain financing for the acquisition of raw land and its subsequent development. It also extended financial assistance for house construction.

The SHFC, meanwhile, administers the CMP, a financing scheme that allows residents of blighted areas to own the lots they occupy and construct houses on them. LGUs, NGOs, and, in some cases, the NHA, act as loan originators. SHFC's Abot Kaya Pabahay Developmental Loan Program provides assistance to social housing developers identified by LGUs as serving priority areas in relation to socio-economic and housing development.

The Development Bank of the Philippines (DBP), the Land Bank of the Philippines (LBP), and the Philippine National Bank (PNB) also provide loans for various LGU Housing Programs. In the case of DBP, the housing units or lots generated under the programme are to be sold to the target beneficiaries on installment s. Homebuyers secure housing loans from Pag-IBIG, DBP, or the Government Service Insurance System (GSIS). The LGU, in turn, repays DBP the corresponding loan amounts through the LGU Housing Loan with Take-out Mechanism (Bridge Financing).

The Standby Credit Facility is a joint undertaking of an LGU and a private developer. It is convertible to a term loan and has a maximum term of two years.

A DBP standby letter of credit is issued to guarantee the LGU's payments to the developer. The DBP also imposes collateral requirements which pertain to the Deed of Assignment, with a hold-out of a specified portion of the LGU's Internal Revenue Allotment. As for letters of credit issued by the LBP or PNB, the loan amount is based on the project requirement whereby the LGU shall contribute 25 percent of the total cost. The collateral may go as high as 20 percent of Internal Revenue Allotment, or 20 percent of an applicant's regular income or his/her net profits/income from the project.

The GSIS also funds social housing through its Mass Housing Program, via which the LGU applies for a loan from GSIS-accredited banks. Under such an arrangement, the GSIS shoulders the LGU's corresponding loan, after which loan payments are coursed through the accredited banks.

3.5 THE PRIVATE SECTOR

Government policies have been largely instrumental in boosting the growth of private developer-built social housing so that although they are not part of the housing bureaucracy, private developers producing and selling social housing units are becoming increasingly important actors in the social housing sector. Their growth has also been facilitated by the efficiency of HDMF in providing government and private sector employees financing for their housing requirements. HDMF does this through its Pag-IBIG Fund from which members can take out loans to buy a house built by a private developer. The availability of end-user financing through Pag-IBIG has driven the demand for social housing upward. HDMF has also lowered

“*Private developers producing and selling social housing units are becoming increasingly important actors in the social housing sector.*”

the interest rate on social housing loans to six percent. This subsidized rate is at par with the interest rate charged by the CMP, which caters to poor informal settlers.

In recent years HUDCC raised the price ceiling for social housing units, thereby encouraging more developers to go into social housing construction. Today, many developers consider the social housing sub-sector the most profitable segment of the housing market because of the high demand for housing on the part of the working population in the cities and suburbs. Although what private developers produce is often not affordable to the poorest 30 percent of urban households, which consist mostly of informal settlers, government nonetheless believes in the multiplier effect of housing and its contribution to economic growth. For this reason, government has been supporting the housing industry via the policies mentioned above.



A busy street in Manila

© Gerald Nicolas

4. THE LEGAL FRAMEWORK

Overall, the legal framework establishing the rules of access to secure tenure in the Philippines favors the legal acquisition of land or housing tenure through ownership or freehold. Rules governing proprietary rights and the transfer of ownership of land, for instance, are much more developed than rules on renting, long-term leases, or usufruct. The bias for ownership in existing land laws, reinforced by cultural preferences among low-income city dwellers who favor owning home plots and housing units, explains the large proportion of city dwellers with no legal tenure.

4.1 LAND REGISTRATION

Having a parcel of land registered or titled is often a complicated process. In the Philippines, only 46 percent of 24.2 million parcels of land are titled and 70 percent of these, or 7.8 million, are residential.²⁶ The land administration system is beset by many problems, several of which are structural in nature. Among the problems identified by a study undertaken under the Philippines-Australia Land Administration and Management Project are the following: 1) the existence of conflicting laws that regulate land use and administration, 2) the existence of two distinct processes for titling land (administrative and judicial), 3) the existence of multiple forms signifying ownership rights over land, 4) the presence of multiple property taxes and other disincentives toward the formalization of land transactions, 5) the existence of multiple land valuation methods, and 6) the duplication of and overlap in rules, functions, and the activities of key land administration agencies. These structural defects have resulted in tedious land registration and titling procedures, the proliferation of fake and spurious land titles, overlapping tenure instruments for public lands, and inappropriate land classifications for planning and development. The implementation of some anti-poverty laws (such as the Comprehensive Agrarian Reform Program and the Indigenous People's Rights Act) has also been impeded by the inefficiencies in the land records management system.²⁷ The current advocacy for the Land Administration Reform Act is premised on the perceived need for the establishment of a unified land administration system that would integrate land titling and registration procedures.

4.2 THE NEW FREE PATENT LAW

On 9 March 2010, Congress passed Republic Act 10023 which aims to facilitate the registration of residential lands. The law allows the issuance of a free patent requiring only 10 years of actual occupation. It covers all lands

²⁶ www.phil-lamp.org

²⁷ *Philippines-Australia Land Administration and Management Project (PA-LAMP), Land Administration Reform "Winning the War Against Poverty", Policy Studies Integration Report (October 2002), ii.*

zoned as residential areas, including town sites and military reservations. By virtue of this law, any actual occupant may apply for a free patent for up to 200 square meters in highly urbanized cities, up to 500 square meters in other cities, up to 750 in first and second class municipalities, and up to 1000 square meters in all other municipalities. This law can facilitate the poor people's access to untitled land in the urbanizing areas.

4.3 LAND VALUATION

Because secure land tenure is often equated with land ownership, the pricing of land has become a critical factor, constraining the poor people's access to legal tenure. Not only has urbanization pushed up land values considerably, thereby making significant portions of urban areas inaccessible to the poor, but land valuation rules could also sometimes vary widely. When the Philippine legislature adjourned in June 2010, the Land Valuation Reform Bill which seeks to institute a uniform standard for land valuation was pending in the Senate.

4.4 RESTRICTIVE BUILDING STANDARDS

In most cities, however, the poor have limited access to legal land tenure, not only because of high land prices, but also because of the tedious and expensive process involved in acquiring a land title. Shelter insecurity is compounded by the substandard quality of housing which is all that the poor can afford. Informal dwellings are under constant threat of demolition not only because of their location (either on danger zones, or on private land which needs to be cleared for a new development, or on public land where infrastructure will be put up), but also because they do not conform with building standards. Consequently, the National Building Code is frequently used by local authorities as the legal basis for demolishing unwanted, informally built residential structures. Once local authorities decide to apply the Building Code strictly, informally-built houses, especially in pocket-sized communities, will be extremely vulnerable to demolition.

Aside from the Building Code, the Water Code is another law often cited to remove the shanties of informal settlers built on the banks of rivers and waterways. An estimated 60,000 households in Metro Manila alone are in this situation. This law prohibits any structures on the easements of rivers and waterways up to three meters from the water line.

Low-income subdivisions are governed by fairly more relaxed standards established by the law known as Batas Pambansa (BP) 220.²⁸ The promulgation of BP 220 encourages private developers to build social housing projects or subdivisions for low-salaried private and government employees. Informal settlements which, to begin with, have no legal tenure, do not conform with legally prescribed housing and subdivision standards, not even BP 220. Resettlement projects and CMP-assisted communities, on the other hand, are required to be compliant with BP 220 standards.

²⁸ *Batas Pambansa 220, titled "An Act authorizing the Ministry of Human Settlements to establish and promulgate different levels of standards and technical requirements for economic and socialized housing projects in urban and rural areas from those provided under Presidential Decrees numbered 957, 1216, 1096, 1185" was enacted in 1982 and provides for relaxed design standards for low-income or social housing subdivisions, among them smaller minimum lot sizes (36 square meters) and floor areas (20 square meters), narrower roads and alleys, and cheaper paving materials (asphalt instead of concrete).*

4.5 OTHER FORMS OF TENURE

Aside from ownership, other forms of tenure for which there are laws governing their practice in the Philippines include lease (of land or residential units), usufruct, and cooperative housing. Intermediate or temporary tenure systems are not provided for by law, but are established on the project level. Examples of intermediate tenure instruments that confer use rights and some degree of security of tenure would be the certificates of lot awards issued by the NHA to beneficiary families, for units in resettlement projects or areas subject to presidential land proclamations.

4.6 HOUSING RIGHTS OF INFORMAL DWELLERS

The UDHA which was signed into law in 1992 as Republic Act 7279 was the first legislation to formally confer housing rights, albeit loosely defined, to the urban poor. It established as state policy the provision of “decent housing at affordable cost” to “underprivileged and homeless citizens.”²⁹ The law also explicitly declares that “squatter evictions will be discouraged as a practice.” It states that evictions will be allowed only under three circumstances: 1) when land needs to be cleared for an infrastructure project, 2) when the informal dwellings are standing on hazardous or “danger” areas, and 3) when there is a court order for the demolition.

By setting restrictions and requirements in the conduct of squatter evictions, the law provides some measure of legal protection to informal settlers against arbitrary, inhumane, and forced evictions. It stipulates the issuance of a 30-day notice, the conduct of community consultations and a census, and, most importantly, the provision of a relocation site. Evictions are prohibited on weekends, during inclement weather, and beyond regular office hours. The unnecessary use of force and the use of heavy equipment to dismantle or demolish dwelling structures are not allowed either.

Aside from protecting informal settlers against inhumane eviction, the law also directs local governments to allocate lands to be used as social housing sites, where informal settlers can reside under legal tenure. The law declares it a state policy to provide for the “rational use and development of urban land” in order to ensure “access to land and housing by underprivileged and homeless citizens.” Taken as a whole, UDHA provides for a systematic programme for regularizing informal settlements and providing secure tenure to the urban poor under the leadership of local governments, with assistance from national agencies.

Successive governments have taken a selective approach in implementing UDHA through the issuance of presidential land proclamations and the provision of continuing support to the Community Mortgage Program.³⁰ Local governments have also tended to take a back seat vis-à-vis central government in addressing land and housing issues. Whereas UDHA envisions an active role for local governments in making decisions on land uses to favor social housing, few local governments have applied their land use and allocation powers to provide more land for housing their poor citizens.

“*Aside from protecting informal settlers against inhumane eviction, the law (UDHA) also directs local governments to allocate lands to be used as social housing sites.*”

²⁹ Section 2 Declaration of State Policy and Program Objectives, RA 7279.

³⁰ The Community Mortgage Program, a lending programme administered by the national government, gives out loans to communities that want to purchase land for housing.

4.7 FORMS OF LAND AND HOUSING TENURE AVAILABLE TO THE URBAN POOR

Under the law, a range of housing tenure forms is available to the urban poor. Setting aside the issues of affordability and tedious titling and registration procedures, legal tenure is accessible to the Filipino urban poor.

Freehold or full ownership with a title is the highest form of tenure. This form of tenure has been acquired by former informal settlers who have either become beneficiaries of resettlement programmes and the CMP, and have paid for their housing loans in full; or have directly bought land from a landowner through a negotiated purchase. With full ownership comes the right to sell the land and/or housing unit.

Amortizing owners under the CMP or of resettlement lots and/or housing units enjoy secure tenure without the right to sell the subject lot or housing unit. This restriction is contained in legally binding contracts. But while they cannot sell their units/lots, amortizing owners cannot be evicted and therefore virtually enjoy full tenure security.

While there are laws that define the rights of renters and rent control laws that regulate rent increases, renters/tenants in informal settlements hardly have any use for them.³¹ Renters of informally constructed dwellings are only as secure insofar as the rented structures are protected from demolition. There are usually no written contracts that bind the owners of these informal dwellings to the agreements they make with their renters. Rental agreements in the lower segment of the rental market are usually only verbal, although acknowledgement receipts for rent paid are often given to the tenant by the landlord, as proof of payment.

The Civil Code of the Philippines (Articles 1654-1688) provides the general guidelines governing the lease of urban and rural lands. The Rent Control Act of 2009, on the other hand, provides for more specific regulations on rent increases for residential units with monthly rent not exceeding Php10,000 (approximately US\$217) in Metro Manila and Php5,000 (approximately US\$108) elsewhere.

Lease arrangements are allowed by law on land owned by private individuals or by government. In practice, there are few examples of government lands leased either to individual families or to community associations for housing purposes. More common are leases of government land for business or industrial use.

There are also few examples of public rental housing in the Philippines. In these situations, the general rules contained in the Civil Code and the specific regulations in the Rent Control Law would also apply.

More recently, usufruct arrangements have been adopted as an alternative form of tenure for the purpose of making legal housing more affordable to the urban poor. While usufruct, as defined in Philippine law (specifically the Civil Code of the Philippines (Republic Act 386) Title VI Articles 562-612), was, in the past, primarily and customarily applied in the agricultural and industrial settings, it is now being appropriated for use in the residential context.

“*Renters of informally constructed dwellings are only as secure insofar as the rented structures are protected from demolition.*”

³¹ By law, eviction of a tenant is allowed only for the following reasons: 1) non-payment of rent for three months, 2) subleasing of the unit without the express consent of the owner, 3) the landlord's needing the property for personal use (the tenant must be given three months' notice), and 4) the landlord's needing to make repairs (the ejected tenant, however, has the right of first refusal where renting the said unit after it has been repaired is concerned).

5. CAPACITIES OF STAKEHOLDERS

The development and implementation of alternative secure tenure approaches depends on the political and organizational capacities of key actors that will be relied upon to perform the various roles and activities involved in a given approach. If these capacities are not there, the approaches may look sound on paper but will not likely take off. On the other hand, the capacity of stakeholders to innovate and find solutions to critical bottlenecks can render viable approaches that were initially difficult to implement.

5.1 LOCAL GOVERNMENTS

Although local governments have the primary responsibility under the UDHA to provide shelter security to informal city dwellers, tenure regularization is typically not a priority development agenda of local governments. A few local governments have initiated housing programmes that provide secure tenure to the urban poor, among them the cities of Naga and Davao, using their own resources and approaches. But Quezon City and the cities of Muntinlupa, Las Piñas, Caloocan, and Marikina use the CMP and organize communities to access this national lending programme. Still others like Valenzuela, Mandaue, Iligan, and Legazpi have forged partnerships with NGOs in implementing slum upgrading in communities where tenure has been secured. All these examples indicate that while, generally, political will and capacity for tenure regularization are low among local governments, the interest is slowly growing and some local governments have gained experience in this area.

A growing trend being supported by multilateral agencies such as ADB and the World Bank is the establishment of multi-stakeholder partnership mechanisms at the local level. The World Bank's City Development Strategy and ADB's Development of Poor Urban Communities Sector Project are examples of capacity development initiatives aimed at equipping local governments with the necessary technical and organizational capability for shelter planning, with emphasis on tenure security for informal settlers. The participation of local governments in these programmes has unfortunately been somewhat small.

5.2 NATIONAL HOUSING AGENCIES

The provision of shelter security is a major goal of the national government's shelter programme, as outlined in the Medium-Term Philippine Development Plan for 2005-2010. Thus, the various shelter agencies have adopted the provision of tenure security as a major thrust. However, the actual level of provision has been rather low, judging from the performance



Informal settlers along the railroad tracks in Manila © John Lagman

of these agencies in the past several years.³² It is not clear whether the poor performance is due to the limited resources given to housing services by the national government, or to a low absorptive capacity on the part of housing agencies to utilize the resources allocated to them through budgetary appropriations. This is apparent in the fund utilization performance following the passage of the Comprehensive and Integrated Shelter Finance Act in 1995. While the law provided for a yearly appropriation of Php5 billion (approx. US\$108 million) for select housing programmes over five years, by 2009 (14 years later) only half the total amount stipulated had been released to the intended programmes.

On the other hand, the Philippines is spending relatively less on housing compared with Asian countries of comparable levels of income. The Philippines' housing expenditure was lower than average from 2000 to 2007. During the period, it spent an average of 0.1 percent of its GDP on housing annually, while Thailand spent 0.5 percent, Singapore 2.1 percent, Malaysia 0.4 percent, and Indonesia 0.23 percent.³³

Held together by a coordinating council, the existing housing bureaucracy is in many ways less cohesive than other government sectors. The HUDCC provides the general policy directions for all shelter agencies and the entire government housing programme; and the HUDCC Chair sits on the board of all the shelter agencies. Moreover, all the shelter agency heads sit on the governing council of HUDCC. Still, the housing agencies, most of which are corporations with their own charters, exercise a high degree of independence in terms of their budgets and expenditures, because they have corporate earnings and are not completely dependent on appropriations

³² See the paper by the Partnership of Philippine Support Service Agencies and the John J. Carroll Institute on Church and Social Issues, "Civil Society Assessment of the MTPDP (2005-2010) Performance in Housing" for a detailed analysis of the accomplishments of the different shelter agencies vis-à-vis the targets set by the Medium-Term Plan. Among the salient findings of the assessment are that the socialized housing targets in the plan covered merely 40 percent of the projected social housing need (which is itself underestimated) and the agencies' performance ranged between 50 percent and 70 percent of the target. Significant segments of the target population have also been systematically excluded because of the programme policies and priorities set by the housing agencies.

³³ *Ibid.*, 8.

from the national budget. They have also established their respective priorities and formulated their own programme policies. The current set-up shows how the performance of the housing sector appears to depend more on the leadership of the individual agencies than on the HUDCC.

The NHA, which has a specific mandate to attend to the low-income sector, performs many roles in the different land tenure programmes of the government. Its biggest and most established role is the implementation of large-scale resettlement. While it has developed resettlement sites and undertaken massive demolitions and relocations, its resettlement programmes have been widely criticized for the distant location of the new housing sites, the inadequacy of basic services and livelihood support after the families are relocated, the poor repayment rates of the beneficiaries, and the high rate of abandonment of the awarded housing units.

The NHA is also charged with facilitating the disposition of lands, as provided for by presidential land proclamations, but has faced formidable technical, institutional, and financial difficulties. All the aforementioned observations are borne out by the slow progress in the distribution of titles in the proclaimed areas.

Finally, the NHA assists communities in accessing CMP loans. It shares this role of being a CMP originator with NGOs and local governments.

Compared to NHA, the Social Housing Finance Corporation (SHFC) is a smaller and newer organization which has the capacity to deal with smaller-sized communities, and work with NGOs and local governments. It also has the organizational capacity to undertake lending and collections, and is presently attempting to localize its main programme, the CMP, to increase local government participation. However, NGOs and communities find its processes too slow and its lending requirements restrictive. It has had a hard time increasing the scale of its housing loan portfolio.

5.3 NON-GOVERNMENT ORGANIZATIONS

Civil society has active and well organized NGOs and networks capable of engaging government in housing issues, and implementing land and housing programmes for the poor. In fact, it was the advocacy of NGOs and urban poor groups which led to the creation of the SHFC in 2004 and the Presidential Commission for the Urban Poor in 1986. The same advocacy also led to the promulgation of a number of presidential land proclamations.

For their part, some NGO networks like PHILSSA and PBSP have developed the capacity to implement slum upgrading in partnership with local governments and development agencies like the World Bank and Asian Development Bank.³⁴ Aside from providing assistance for upgrading or constructing community infrastructure, these NGOs are very concerned with sustaining the improvements already in place and generating the capacity to expand services to other communities. For this reason, some NGOs exert a great deal of effort in setting up partnerships among local

³⁴ One example is PBSP's STEP-UP programme which provided technical assistance, loans, and grants for home improvements, community infrastructure, and livelihood activities. It was implemented in 42 communities in 12 cities. PHILSSA's UUPCRS and UPSURGE projects undertook community upgrading projects benefiting roughly 7,500 households in 21 communities in 8 cities. STEP-UP was assisted by ADB; UPCRCS and UPSURGE by the World Bank.

governments, communities, and other NGOs, when undertaking tenure and community upgrading programmes.³⁵

There are NGOs with the capacity to help communities resist illegal and forcible eviction, and to advocate better conditions in resettlement sites. They help organize communities in these resettlement areas in order to improve the quality of services and secure better terms on housing loans.

NGOs have also formed microfinance institutions capable of giving out loans and collecting repayments for enterprise development and emergency needs. However, NGO experience in lending for housing remains very limited, despite some NGOs' having also gained experience in cooperative housing.

Harnessing voluntary labor for house construction has been brought to a larger scale by a faith-based group known as Gawad Kalinga. Gawad Kalinga has not only succeeded in mobilizing financial resources from private individuals and groups to support housing for the poor, but has also managed to forge partnerships with local governments that aim to deliver secure tenure and improved housing to informal settlers.³⁶

A noticeable trend in the work of NGOs is their increased preference to work with local governments and set up institutionalized mechanisms so that pilot projects on housing and tenure can be replicated and scaled up. While some successful institutionalization experiences have been noted among NGOs at the national (e.g., CMP) and local (e.g., Local Housing Boards) levels, these experiences are still quite limited and have not been sufficiently replicated.

5.4 URBAN POOR ORGANIZATIONS

For four decades now, urban poor communities have been organizing and mobilizing support for land tenure issues. They have formed issue-based movements and national coalitions to advance general urban poor causes like fighting eviction and pushing for land tenure programmes. These movements and coalitions have also been pushing specific policy reforms like the passage of laws (e.g., UDHA, Comprehensive and Integrated Shelter Finance Act, and the repeal of the anti-squatting law). They have similarly been promoting the establishment of pro-poor institutions such as the SHFC and PCUP, and the reform of resettlement and CMP policies.

The reach and political impact of an active urban poor movement advocating land tenure reforms are not yet widely felt, however. Further, while most urban poor communities are organized, only a very small percentage are linked to larger networks capable of bringing local issues to the national platform. There are also some informal settler communities that are unorganized and are not being reached at all by NGOs and other service organizations.

Some national urban poor coalitions have demonstrated the capacity for advocacy but have little capacity to mobilize resources and implement

“*For four decades now, urban poor communities have been organizing and mobilizing support for land tenure issues.*”

³⁵ PHILSSA's UPSURGE was specifically designed to establish local level multistakeholder partnerships for housing. PHILSSA also acquired a grant from the British Department for International Development, for a capacity building programme aimed at institutionalizing national and local partnerships for addressing poverty and homelessness. The programme has been implemented in 14 cities nationwide.

³⁶ A typical partnership scheme has the local government providing the land and the GK building new houses for informal settlers whom the local government wants to assist.

development projects for tenure regularization or community upgrading. Different urban poor federations have developed their distinct strengths. For example, there are urban poor organizations that have gone through CMP and are quite knowledgeable about land transfer transactions and loan processing, and can therefore assist communities in land acquisition. Some urban poor federations like the Homeless Peoples Federation of the Philippines, on the other hand, specialize in organizing savings groups among the urban poor, to help them meet such basic needs as housing and secure tenure.

Other federations like the Urban Land Reform Task Force (ULRTF) are more highly skilled in policy and legislative advocacy. Still others like the Ugnayang Lakas ng mga Apektadong Pamilya sa Baybaying Ilog Pasig (ULAP or, translated, United Forces of Affected Families along Pasig River) are most effective in anti-eviction work. Forming an umbrella coalition known as the Urban Poor Alliance (UP-ALL) has allowed these federations to hone their skills in different areas and has enabled the UP-ALL to collectively and competently engage in different tasks and issues.

5.5 PROFESSIONALS

Land professionals, planners, architects and engineers are involved in land tenure programmes as individuals rather than as groups or professional associations, even as some NGOs are staffed by architects and planners. These professionals usually come in as technical consultants to NGOs, communities, and local governments. Professional associations have had little involvement in policy discussions, and in the implementation of land tenure and housing programmes for the urban poor.

PART II

Implementing alternative tenure approaches

6. THE COMMUNITY MORTGAGE PROGRAM

The community mortgage concept was first introduced and implemented in the Philippines in the mid-eighties by an NGO assisting urban poor communities in Cebu City, which wanted to acquire legal tenure by buying privately-owned land. Following the reinstatement of a democratic government in 1986, a group of social reform advocates managed to enter the government's housing bureaucracy and slowly introduced a home lending programme that would specifically cater to the urban poor.

In August 1988 the NHMFC, which at that time was programme administrator, formally adopted the CMP as a national housing programme.³⁷ The Unified Home Lending Program (UHLP), also administered by the NHMFC, was then open only to members of government-managed providential and pension funds, namely the Social Security System, the GSIS, and the HDMF or Pag-IBIG. UHLP therefore excluded the informally employed, to which category many of the urban poor belonged. The CMP reached out to poor families that would otherwise not have had access to formal housing finance institutions.

6.1 FEATURES OF THE APPROACH

The CMP has been designed to meet the need of low-income households in informally settled communities for shelter financing. Through the programme, the government lends funds to informal settlers organized as a community association, thereby making it possible for them to buy a piece of land which they can occupy permanently. The land can be on-site, presently occupied by the community, or a new site entirely, where the community intends to relocate. The CMP also offers loans for site improvement and house construction even if, in reality, the majority of CMP loans are issued for the acquisition of land.

Given that the CMP was designed to be a demand-driven approach, it is the community needing assistance which decides to participate in the programme and initiates the moves leading to such participation. Cases of abandonment of the awarded lots by the beneficiaries of CMP projects have been rare, compared to those of off-city resettlement projects.

As mentioned earlier, a CMP project can either be on-site or off-site. In an on-site project, informal settlers can obtain ownership of the land they occupy by buying it through a community mortgage loan. The houses and plots are then sometimes realigned or reblocked to conform with minimum subdivision standards. A subdivision plan is one of the requirements for a CMP loan. Box 6.1 contains the different stages in acquiring a CMP loan.

³⁷ The administration of the programme was transferred to the newly created Social Housing Finance Corporation in 2004.

BOX 6.1: STAGES IN ACQUIRING A CMP LOAN

- **Preparatory steps by community.** As a part of the preparatory steps to acquire a CMP loan, the community registers itself as a homeowners association (HOA) with the appropriate government agency, secures from the landowner a voluntary agreement or intent to sell and submits loan documents and a lease purchase agreement signed by the HOA and individual member-beneficiaries. The HOA should engage the services of a loan originator, which can be an NGO, a local government unit, or the National Housing Authority.
- **Issuance of the Purchase Commitment Line (PCL).** During this stage, both the project and originator are accredited by the SHFC. The government assigns a "line" or allocates an amount for the project, based on the selling price of the property and/or the cost of site development. Both the appraised value of the property and the borrowers' capacity to pay are considered in determining the PCL. If the selling price exceeds the PCL, the HOA is required to put up equity equivalent to the balance. This stage also entails a site inspection and a background investigation to assess the physical conditions of the property, the organization's capacity to fulfill the obligations of a borrower, and the members' knowledge of the programme.
- **Approval of the Letter of Guaranty (LOG).** By issuing the LOG, SHFC guarantees payment of the property to the owner, once the latter transfers the title to the organization. The SHFC board approves the LOG after the loan and mortgage have been examined and the requirements fulfilled.
- **Loan take-out.** With the release of the loan, the SHFC pays the landowner for the land while the HOA members start paying their amortization to SHFC after a month.
- **Post take-out.** The HOA collects the monthly amortizations of its members and remits them to SHFC. The HOA also keeps individual records of paid and unpaid amortizations. As long as the community title to the property remains with the association, any default in payment by a member is a liability of the entire association. In cases where a defaulting member can no longer service his/her loan, the HOA finds a qualified substitute borrower who assumes the rights and obligations of the defaulting member. If pursued, the conversion of the community title to individual parcels assigned to individual members and the transfer of the title to the name of each member are done at this stage. The community loan is then individualized.

Source: Eduardo Jorge Anzorena, S.J., Housing the Poor: The Asian Experience, 2d ed. (Cebu City: The Asian Coalition on Housing Rights, 1994); Housing the Poor in the New Millennium (Cebu City: Pagtambayayong--A Foundation for Mutual Aid, Inc., 2004); "The Community Mortgage Program", Selavip Newsletter (April 2005) 75-79.

An off-site project, on the other hand, requires relocation to another area which the community chooses and purchases. Off-site projects are usually resorted to by communities located in danger zones and/or those affected by infrastructure projects and court-ordered evictions. To be eligible for loans, the informal settlers have to organize themselves into a homeowners' association (HOA) with at least nine households but no more than 300 member households (recently reduced to 200).

After an association has complied with the minimum requirement and met certain criteria, the SHFC approves the mortgage and advances payment to the landowner. Initially, the loan ceiling was set at Php30,000 per family for the acquisition of raw land, and Php45,000 for developed land. At present, however, the amounts are higher: Php60,000 for the acquisition of raw land and Php80,000 for lands in Metro Manila and other highly-

urbanized areas. The group loan is payable monthly up to 25 years at 6 percent interest per annum. The land to be purchased serves as collateral for the loan.³⁸

The HOA is considered the borrower. Throughout the process, it is responsible for preparing documentary requirements, negotiating with the landowner, collecting the monthly amortizations of its member-beneficiaries, and ensuring that their financial obligations to the lending institution are met. The HOA also enforces sanctions on defaulting, “recalcitrant”, or uncooperative community members, and oversees the reblocking and enforcement of the subdivision plan.

Another feature of the CMP is the mobilization of project “originators”, which can be non-government organizations, local governments, or key shelter agencies such as the NHA. The originator assists in organizing the community and in the evaluation of the eligibility of each member-beneficiary. It also helps the HOA comply with the documentary requirements of the programme. In addition, the originator helps the community set up an effective collection system and oversees the collection of payments from the association members. Part of the originator’s work is to inculcate the values of discipline, solidarity, and trustworthiness among the community members. In 2009 there were more than 200 accredited CMP originators.

6.2 SPECIFIC APPLICATION OF THE APPROACH IN TWO CASES

The CMP process looks neat and tidy on paper, but fulfilling the requirements and going through the different steps in the process have often entailed problems for poor communities. The problems are sometimes financial in nature, but also quite frequently technical, such as those involving right-of-way, the title, the classification of the land, or its being assessed as unsuitable for housing based on existing standards. Some actual cases are illustrative of a number of these unforeseen difficulties which communities only discover as they go through the CMP process.

6.2.1 The Golden Shower Community in Payatas, Quezon City

In 1991, the members of the Golden Shower Homeowners’ Association, Inc. in Payatas, Quezon City began to negotiate the purchase of the land from Manila Remnants, Inc., a real estate developer. At the time, the land sold for Php250 per square meter. Some years later, the selling price rose to Php1,500 per square meter, and because the community members could not pay for the property in full, Manila Remnants agreed to accept the initial payment of Php274,000. Manila Remnants eventually agreed to a total price of Php23 million or an average price of Php800 per square meter. To be able to complete the payment, GSHAI obtained Php6 million from the Vincentian Missionaries Social Development Foundation, Inc. (VMSDFI) and the remaining Php17 million from the ADB-Japan Fund for Poverty Reduction project.³⁹

³⁸ The community may also take out a loan for site development, which includes upgrading the water supply, drainage and sanitation, and home construction or improvement. Loans for these purposes, however, have been insignificant to date, suggesting that land tenure security is the foremost priority of the landless urban poor.

³⁹ In July 2000, Asian Development Bank, using the JFPR and in collaboration with DSWD, piloted slum



Some families in Golden Shower community, a CMP site, have improved their houses

© Gerald M. Nicolas

To repay VMSDFI and ADB-JFPR, GSHAI applied for a CMP loan in 2001, with the NHA as originator. By then the community was divided into two groups: GSHAI-I and GSHAI-II. In 2004, GSHAI-I decided to cancel its CMP application, while GSHAI-II went ahead despite the misgivings and dissenting opinions of some members. It received its loan take-out in 2009.

The CMP process was lengthy due to delays in the processing of documentary requirements by government agencies. The association also experienced difficulty in collecting the members' contributions, which were necessary to producing a subdivision plan with a preliminary approval and a locational clearance (PALC) from the DENR, and to submitting a letter of intent to the NHMFC, indicating the community's willingness to pay equity equivalent to two months' worth of advance payments, or Php18,000 per member.

The PCL was released in November 2002, two years after the loan documents were ready. Prior to receiving the Letter of Guarantee (LOG), GSHAI-II also needed to settle some issues with GSHAI-I regarding the preparation of segregated land titles. This process required a re-documentation or revision of documents already submitted.

The reclassification of the property from residential to commercial also delayed the approval of technical requirements (e.g., the subdivision plan) at the city level. Once the issue was settled, GSHAI II had to pay a "facilitation fee" to various individuals in the City Planning and Development Office of the government, so that the subdivision plan would be forwarded to the

upgrading projects in Payatas, Quezon City and in Muntinlupa City. Each project was provided US\$1 million in grant assistance.

city council for the necessary endorsement. The CMP also required the landowner to transfer the title to the community association.

Further, in 2002, GSHAI-I and GSHAI-II found out that Manila Remnants had negotiated with the DPWH for a road-widening project despite the two associations' having paid for the property in full. The DPWH's agreement with Manila Remnants was thereafter rescinded, and Manila Remnants had to replace the lots taken by DPWH for the road. But the CMP application papers of the community were withdrawn for another re-documentation because the property boundaries and technical descriptions had to be changed.

Other items which cost the community money were the Mortgage Redemption Insurance (MRI), the BIR documentary stamp tax, and the NHMFC documentary stamps which amounted to almost Php1 million. GSHAI-II therefore needed to access another loan from the Homeless Peoples' Federation of the Philippines, Inc. in order to prevent the assessed tax value of the land from reverting to Php4,000 per square meter, which was the existing zonal valuation.

To expedite the process, GSHAI-II engaged in "under the table" transactions with the typists and tax examiners who demanded money. The community also had to undergo yet another re-documentation because a portion of the property was on a slope and had to be developed. A new subdivision plan was likewise submitted because the old one lacked 18 footpaths. Given all



Example of site improvement required by the housing project: a permanent riprap in Payatas

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BOX 6.2: A LOCAL GOVERNMENT UTILIZES CMP FOR CITY-WIDE TENURE REGULARIZATION OF SLUM COMMUNITIES

One of the communities in Las Piñas that accessed a CMP loan was the Sunshine Ville HOA in Barangay Talon Dos, a property covering 6,000-square meters beside a high-end subdivision. Most of its beneficiaries were factory workers, drivers, and laundrywomen.

In 2000, a certain Gorospe wanted to subdivide the property which prompted the community organization then called “Mamamayang Mahirap sa Pook Looban” (MMPL, literally meaning “Poor Citizens in the Inner Areas”) to approach the UPAO, since it was the local government agency known to accommodate such concerns. UPAO suggested that the community reactivate its association, which was eventually named La Suerte Neighborhood Association.

In 2001, another claimant, Smithville Finance Corporation visited the area, showed the people a land title, and sued the community association for engaging with Gorospe. The UPAO helped the community association negotiate the price of the land at Php3,000 per square meter.

The UPAO introduced CMP to the community and found for it an NGO originator: the Foundation for Development Alternatives. La Suerte had to register itself with the HLURB as Sunshine Ville HOA, with 92 member households.

The PCL was released in 2002. Reblocking was conducted in 2003, and with the help of another NGO, Gawad Kalinga, houses were constructed for 89 families.

UPAO took care of site development and hired community members as construction workers. The loan was “taken-out” in early 2009.

The HOA president attributed the success of the project to the support of the UPAO, which had made it easier for the association members to comply with the requirements.

these, the accomplishment of the remedial features took nearly four years and led to the depletion of the savings of GSHAI-II.

Finally, in July 2009, GSHAI-II’s CMP loan was released. Monthly amortizations ranged from Php252 to Php411 per month, amounts which residents deemed very affordable. In the first few months, GSHAI-II posted a collection rate of almost 100 percent, with some families wanting to pay their loans in full.

6.2.2 CMP for City-Wide Social Housing in Las Piñas City

Las Piñas City is one of the few local governments in the Philippines with an institutionalized programme for local housing needs, as mandated in the Local Government Code and the UDHA. In 2007, more than half (56.3 percent) of its 40,628 urban poor households occupied private lands. The rest lived on properties owned by the local government or by national government agencies. To provide security of land tenure to these families, the city government implemented a programme which set up structures and mechanisms to deal with the problem on a sustained basis and empower CBOs to engage in participatory governance. In 1995, the city government, through Executive Order 12-95, created the UPAO. Further, the Las Piñas Inter-agency Committee on Housing, of which UPAO was also a member, was put up to conduct an inventory of possible and available properties for development, identify priority areas for upgrading and resettlement sites

for informal settlers in danger areas, and formulate policies and guidelines for project implementation.

In 2008, City Ordinance 826-08 established the Housing and Estate Development Board (HED Board) to formulate, monitor, and implement policies for housing projects and programmes, and estate management and urban development. In all these special bodies, the UPAO was the main coordinating body, minimizing the entry of new settlers and the formation of new settlements, and serving as a one-stop shop to help facilitate the processing of documents submitted for housing loan applications.

The city also institutionalized the organization of informal settlers into bona fide community organizations so they could avail of the housing programmes. These CBOs were required to register with the Securities and Exchange Commission and/or the Bureau of Internal Revenue; and were offered different land acquisition schemes. The LGU also required them to save, and sponsored the production and distribution of individual passbooks.

As of December 2007, a total of 26,926 households or 66 percent of the city's total informal settler population had been given security of tenure through the city's land acquisition schemes. With 8,573 households in 97 community-based organizations or HOAs under it, CMP ranked second to presidential proclamations in terms of having the most beneficiaries. Sixty-five percent of these projects (involving 59 HOAs that had 5,608 households) have been taken-out or completed, while the remainder are at the priming stage or are under process.

The UPAO provides technical and organizing assistance to informal settlers under CMP, while origination activities are delegated to accredited NGOs. The local government handles the construction of the needed amenities in the area, such as roads, drainage and streetlights. On behalf of the informal settlers, the city government has also negotiated for certain benefits from other government agencies, by endorsing requests for transfer tax or capital gains tax exemptions, and amnesty in cases of tax deficiency.

To address the financing needs of informal settlers wishing to acquire land, the city affirmed its commitment to generate local funds and access national funds for its social housing projects, including the CMP. In 1996, it passed Municipal Ordinance 303-96, which appropriated Php5 million as a revolving fund to finance land acquisitions by residents of poor areas, either under the CMP (see Box 2) or any other similar programme of the national government and other government entities. The amount was for advance payments to cover expenses in the processing of CMP projects and the like. The UPAO admitted that since the beginning, the repayment rate had been low due to the notion of informal settlers that government projects were dole-outs.

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As of December 2007, a total of 26,926 households or 66 percent of the city's total informal settler population had been given security of tenure.
 ”

6.3 LEGAL, INSTITUTIONAL AND GOVERNANCE FRAMEWORK

Republic Act 7279 or UDHA “adopted the Community Mortgage Program (CMP) as a component of the National Shelter Program to assist legally organized associations of underprivileged and homeless citizens to purchase and develop a tract of land and to own lots they occupy or where they choose to relocate under the concept of community ownership.” The CMP had a legislated annual budget from the national government. From 1988 to 1994, short-term loans from government insurance corporations constituted the main source of funding of the CMP. Starting 1995, through Republic Act 7835, the CMP was to have a P12-billion budget for five years, or approximately P2.4 billion a year, directly from the national budget.⁴⁰ Subsequent allocations were to be determined by Congress.

As earlier explained, the CMP was established and first managed by the NHMFC. In 2004, the administration of the CMP was transferred to the SHFC, which was then a newly-formed subsidiary of the NHMFC. This move was made in response to the advocacy of NGOs and People’s Organizations for a more focused implementation of the programme, such that its implementing agency would have the flexibility to adopt policies and develop housing finance products that considered the capacities and limitations of the poor.

The participation of local governments in CMP found legal basis in the Local Government Code of 1991 or RA 7160, which articulated the decentralization of public services related to housing. Because the end-goal of the CMP was formal land ownership, beneficiaries also needed to deal with other government agencies such as the Bureau of Internal Revenue for capital gains tax exemption, the Register of Deeds for land registration, the Land Management Bureau for titling, and the Department of Environment and Natural Resources for subdivision plans, among others.

6.4 PEOPLE’S PERCEPTIONS OF THEIR SECURITY OF TENURE

The opportunity to own land made the CMP beneficiaries in Golden Shower in Payatas, Quezon City and Sunshine Ville in Talon, Las Piñas City better-off vis-à-vis the informal settlers under other government housing programmes. Aside from paying relatively smaller monthly amortizations compared to what they would have had to pay had they been renting or repaying a government-sponsored housing unit in an off-city resettlement site, they felt that CMP provided them more security and a deeper sense of belonging to the city where they lived. Other impacts of the CMP included social acceptance from other segments of society and the beneficiaries’ investing in housing improvements.

⁴⁰ However, the CMP was appropriated only P500 million annually ever since the law was enacted, and a balance of P6 billion remained unreleased to the programme as of 2009.

6.5 BENEFITS AND LIMITATIONS OF THE TENURE APPROACH

6.5.1 In-city housing

CMP provided the most basic element of housing, security of tenure. It conferred on the community the highest degree of land tenure security through ownership. Moreover, it allowed informal settlers to remain where they were: in areas proximate to their employment and essential urban services.

6.5.2 Better access to services

As illustrated in the cases above, security of tenure also improved aspects of housing which were normally deferred or not provided while a community remained informal. Drainage systems, access roads, legal power connections, and water supply were put in place once a community had acquired, or was in the process of acquiring full security of tenure. Free from the threat of eviction, people in a CMP project could upgrade their structures incrementally.

6.5.3 Affordable security of tenure

By granting only one mortgage to an entire community, the CMP helped its poor beneficiaries avoid tedious procedures inherent to individual mortgages. The guarantee of full ownership granted at the loan take-out stage encouraged the community association to be committed to keeping their home lots and paying their amortizations, thus the high repayment rates under CMP. In addition, the programme also allowed the urban poor to acquire land at prices they could afford. Monthly amortizations under the CMP could go below Php500, well within the means of very poor households. The subsidized 6 percent interest rate was lower than what government would have to spend to develop relocation sites and medium-rise tenements, which experienced low repayment rates, besides.

6.5.4 Limited scope

The CMP was not without limitations. First, it prioritized informal settler families occupying private lands, whose owners were identifiable and willing to sell the land at a price within the loan ceiling of CMP and which the members of the community could afford. In highly urbanized areas such as Metro Manila, it is a huge disincentive for landowners to sell their land below market prices to unauthorized occupants. Consequently, there is a lack of affordable land so that informal settlers whom CMP could not accommodate have to contend with threats of eviction or transfer to distant resettlement areas.

6.5.5 Numerous and difficult requirements

As CMP is a land acquisition process involving the transfer of land ownership through a title, community organizations applying for CMP loans must comply with very stringent documentary and organizational requirements that are not easy to meet without the help of an originator. Long processing times have delayed payments to the landowners, prompting some of them to withdraw their offer to sell the property to the community association. These delays also sometimes disillusion some community members and cause financial problems for the originators.

“Community organizations applying for CMP loans must comply with very stringent documentary and organizational requirements.”

6.6 LESSONS AND CHALLENGES

Previous studies and research have considered the CMP an innovative scheme with relative success, compared to other government housing programmes. It is, however, replete with issues that challenge its ability to achieve scale and ensure sustainability.

6.6.1 Funding requirements

The CMP has shown that it is possible for informal settlers to access services from formal housing finance systems. In fact, the problem of funding is caused, not so much by the limited capacity of the end-users or beneficiaries to repay their loans, but more so by the lack of commitment of the national government and the lack of ability of the implementing agency to manage resources entrusted to the programme. Of the remaining Php12 billion CISFA balance as of 2009, Php6 billion was supposedly for CMP. This amount could have filled the program's funding shortfall.

6.6.2 Legal tenure through the ownership of land

While widely considered innovative because it uses community ownership as a principle and means for the acquisition of legal tenure by poor families, CMP is nevertheless still oriented towards achieving legal tenure through ownership. This necessarily entails paying for the cost of the land, which is usually valued at the prevailing market price. Even if the government provides subsidy, there is a limit to the amount of the subsidy, especially within a policy environment where housing is considered a private good. Moreover, governments of low-income countries face major constraints in making housing subsidies available, as these have to compete with other basic services like education and health.

In the case of the CMP, the financial support given is in the form of interest subsidy. Some housing finance specialists, however, recommend abandoning interest subsidies and adopting capital or lump sum subsidies, instead, in the belief that doing so will make the subsidy more transparent. But even with a capital subsidy provided to CMP beneficiaries, the cost of the land would still constitute a substantial expense for the poor.

6.6.3 The role of the local government

Although the creation of the SHFC has led to the focused implementation of the programme, CMP procedures, particularly accreditation, processing, and approval, are largely centralized.

Yet, as the Las Piñas case demonstrated, the local government could help fast-track projects by assisting the community in negotiating with the landowner and facilitating the issuance of a tax exemption.

On the part of the community, prerequisites such as the "undertaking" of certain infrastructure (e.g. land filling) also cause delays. Unless subsidized by the local government or a donor institution, community associations use their savings to fund these civil works. Because the HOA did not have enough funds, for instance, Golden Shower had to persuade the local government to shoulder the construction of a retaining wall or riprap so that the CMP loan application could proceed.

6.6.4 Coordination between and across agencies

Although the CMP is institutionalized in the sense that it has a specific implementing agency, the identified actors in the project, particularly the HOAs, have to deal with other agencies such as the Bureau of Internal Revenue and Register of Deeds. These offices also process and approve documents required by the SHFC for loan approval. Some originators and HOAs note that the lack of a properly coordinated system among these agencies results in further delays, confusion, and the susceptibility of HOAs to “red tape” and “under the table” transactions. There is a proposal to have a “one-stop shop” where satellite offices of pertinent agencies will be housed in the SHFC central office.

6.6.5 Repayment issues

Despite CMP’s affordability, some CMP projects have suffered from low repayment rates, primarily because the community members did not have steady incomes. Recalcitrant members who simply did not want to pay also posed a problem. They were usually those who believed that a government housing project should come free. In Las Piñas, the UPAO was directed to intervene in such situations by serving eviction notices to recalcitrant households and having qualified new households take their place.

6.7 SUMMARY

The CMP is a mortgage financing programme that helps community associations of landless low-income households to purchase a tract of land using the same land as collateral for the loan. It targets the lowest 30 percent of the urban population. Through the Social Housing Finance Corporation (SHFC) and from legislated budgetary appropriation, the CMP extends funds to the community association to buy land either on-site, which the community presently occupies, or a new site entirely, where the community intends to relocate. The CMP also offers loans for site improvement and house construction, although a majority of CMP loans are issued for on-site land acquisition.

After an association has complied with the minimum requirement and met certain criteria, the SHFC approves the mortgage and advances payment to the landowner. At present, loans (per beneficiary) amount to Php60,000 (US\$1,330) for the acquisition of raw land and Php80,000 (US\$1,780) for lands in Metro Manila and other highly-urbanized areas, lower than the Php 150,000 – 180,000 (US\$ 3,300 – 4,000) spent for a typical resettlement lot and housing unit. The group loan is payable monthly up to 25 years at 6 percent interest per annum, lower than the 18 to 30 percent commercial interest rates.

Of the current housing approaches, the CMP has been considered the most innovative. It confers the highest degree of land tenure security through ownership without necessitating the transfer of informal settlers to areas far from their workplaces and essential urban services. Free from the threat of eviction, people in a CMP project can also upgrade their structures and improve community infrastructures like water and electricity incrementally.

The guarantee of full ownership granted at the loan take-out stage, i.e., transfer of the land title to the name of the community association, encourages the beneficiaries to be committed to keeping their home lots and paying their amortizations. This is indicated by the average of 80 percent repayment rate and rare cases of abandonment of the awarded lots by the beneficiaries of CMP projects. In addition, monthly amortizations could go below Php500, well within the means of poor households. The subsidized 6 percent interest rate is lower than what government would have to spend to develop off-city relocation sites and medium-rise tenements.

As CMP is a land acquisition process involving the transfer of land ownership through a title, a community organization availing of a CMP loan has to comply with documentary and organizational requirements with the help of an originator, which can either be an NGO, the local government or a national shelter agency. The period from application to take-out stage usually takes several months and could stretch to a few years depending on the technical and documentary status of the land to be acquired.

The CMP is able to provide secure tenure at a low cost through a well-structured multi-stakeholder and participative process involving government, urban poor communities and NGOs. Since its inception in 1989 up to May 2010, the CMP has assisted 217,929 households in 1,851 communities, 38 percent of which are located in Metro Manila where the housing backlog is highest. A total loan amount of Php8.5 billion (approx. US\$185 million) has been released.



Metropolitan Manila - only 0.2% of the country's total land - is home to nearly 12 million people © Gerald Nicolas

7. PRESIDENTIAL PROCLAMATION

The disposition of government-owned lands and the granting of ownership rights to their informal settler occupants through a land proclamation had been practiced in the Philippines since the 1950s. The first known case of a land proclamation took place under President Ramon Magsaysay. It involved land located in what was then the biggest slum community in the country, Tondo, in the City of Manila. The proclamation set the price of the land very low, so the occupants could buy this from the government.

Subsequently, President Ferdinand Marcos issued presidential decrees to institute what he considered “socially urgent” reforms. Given his vast powers, he designated certain slum communities in Metro Manila as “areas for priority development” (APDs) and later, as urban land reform zones, to upgrade them and give their occupants legal tenure and ownership. The President’s plan of instituting urban land reform, however, failed to materialize. The upgrading of the declared APDs and urban land reform zones, and their disposition were left for the succeeding governments to implement.

In 1986, President Aquino resumed the practice of issuing land proclamations involving urban poor settlements. During her presidency, two large government-owned lands within Metro Manila were declared for disposition to the urban poor. One formed part of a military reservation, while the other was previously designated as a national government center. The latter is one of the two cases discussed in this section.

The biggest number of presidential land proclamations, however, was issued by President Gloria Macapagal-Arroyo. During the first three years of her presidency, she issued 56 presidential land proclamations covering more than 22,000 hectares intended to benefit 203,720 informal settler families. By 2006, the number of proclamations increased to 94, of which 35 were located in Metro Manila.⁴¹

The number of new land proclamations declined after Arroyo was elected President for a new six-year term in 2004. But to President Arroyo’s credit, the practice of presidential land proclamations attained a higher degree of institutionalization under her government. Because many new proclamations were issued, it became necessary to standardize the processes involved, so that the various key players, especially the government agencies, would be properly guided. Certain government agencies and their units were designated to perform specific roles across different land proclamations, unlike in the past when a given agency assumed certain responsibilities only for a particular proclaimed area.

⁴¹ Anna Marie A. Karaos and Junefe G. Payot, “The Homes Promises Couldn’t Build,” *Civil Society Monitoring of the Medium Term Philippine Development Plan: Assessment of the First Two Years 2004-2006* (Quezon City: CODE-NGO, 2006), 68-70.

7.1 FEATURES OF THE APPROACH

A presidential proclamation these days normally involves government-owned land which is declared available for disposition to the following: families that occupy the subject property, informal settlers residing in other areas, and employees of government agencies or local government units. But some presidential proclamations issued under previous administrations involved privately-owned land. The National Government Center, for instance, contained some privately-owned parcels within the proclaimed area of 300 hectares. Thus, acquiring the land from the private owners, compensating them, and turning over the land to qualified beneficiaries suffered major delays. Still, government could also acquire privately-owned land through expropriation or a simple negotiated purchase.

Another feature of presidential proclamations as currently practiced is that the form of land tenure granted to the intended beneficiaries is ownership upon full payment of the agreed price. In cases where the price of the land is low, the beneficiaries can afford to pay the government directly. Otherwise, financing is provided either by the project administrator (a government agency such as the NHA) or through a government home financing programme (such as the CMP).

The processes involved before a property is proclaimed are laid out in a set of “pre-proclamation” guidelines issued by the HUDCC. In general, these processes aim to ascertain the ownership of the property, the legal basis for its disposition, and its suitability as a social housing site. HUDCC undertakes the necessary “complete staff work”, including the compilation of the requisite documents for submission to the Office of the President, whose legal department then examines the papers and verifies the information before recommending appropriate action to the Office of the President.

A land proclamation usually takes the form of an executive order. After the proclamation is issued, the disposition of the land can be initiated by a Local Inter-agency Committee (LIAC), whose membership, responsibilities, and institutional arrangements are usually spelled out in the executive order. In cases where these are not specified, the post-proclamation guidelines issued by HUDCC to cover all presidential proclamations provide a generic set of institutional arrangements which are to be followed. The typical steps involved in the land disposition process are:

- A census to determine the identities and the number of the actual residents/occupants in the proclaimed site. The census results become the basis of the master list of qualified beneficiaries of the proclamation. In some cases, the census is done before the issuance of the presidential proclamation.
- A socio-economic survey to determine, among other things, the residents’ income and capacity to pay.
- The project administrator’s formulation and issuance of policies and guidelines for beneficiary selection and awarding.
- An occupancy verification survey to ascertain if the present occupants are in the master list or were included in the census. This verification serves as the basis for the issuance of a **certificate of lot allocation** (CLA), sometimes also called the CELA.

- The contracting of survey works either by the land or project administrator, or by the community association, which then produces the technical description of each home plot to be awarded to each beneficiary household.
- The issuance of a **notice of award** specifying the name of the beneficiary and the technical description of the home plot to be awarded.
- The issuance of a **contract to sell** specifying the price of the home plot awarded and the terms of payment, including the interest rate and the period of amortization.
- The signing of a **deed of sale** between the beneficiary household and the landowner (a government agency), upon full payment of the land by the beneficiary.
- The issuance of a land title in favor of the beneficiary after the necessary taxes are paid to the internal revenue office, or after tax exemptions are obtained and the Bureau of Internal Revenue has given clearance for the issuance of a title.

7.2 SPECIFIC APPLICATION OF LAND PROCLAMATIONS

While the process outlined above appears straightforward, actual experiences in disposing of lands subject to presidential proclamations have often been beset with technical, political, and/ or financial issues which tended to delay the disposition process. These are illustrated in the two cases that follow.

7.2.1 Baseco: Reclaiming the right to shelter on reclaimed land

The Baseco Compound that sat on public land located at the mouth of the Pasig River north of Manila contained an urban poor community of 10,000 families.⁴² In 2001, when an ADB-assisted project was initiated for the rehabilitation of the Pasig River and the development of the areas along it, the 52-hectare property was among those declared as a priority “urban renewal area.” This implied that the informal settler families living within the 10-meter prescribed legal easement of the river would have to be relocated in government-established relocation sites outside Metro Manila. But the families facing the prospect of relocation sought the assistance of an NGO to help them resist the eviction, and then lobbied with the Office of the President and the HUDCC for the site to be “proclaimed.”

In January 2002, President Arroyo declared the area “open to disposition” through Presidential Land Proclamation No. 145. A LIAC headed by the city mayor was formed, to plan and oversee the disposition of the land to the informal settler families. The community organization, Kabalikat, went into constant negotiations with LIAC on various issues, foremost of which were the adoption of the people’s plan containing the organization’s proposal for the development of the area, and the treatment to be accorded different types of residents of the area (e.g., house owners, renters, and rent-free occupants or sharers).

⁴² Data on Baseco presented in this case study came from Diana Jean Moraleda’s “Uniting Voices: Community Organizing at the Margins”, a case study written as part of the Misereor evaluation of housing approaches in the Philippines, 2009.

BOX 7.1: COMMUNITY ORGANIZATIONS COLLECT INFORMATION AND PROTECT RIGHTS OF DISADVANTAGED MEMBERS

Kabalikat undertook a socio-economic survey of the families in the area soon after it was formed. A total of 4,419 families were interviewed for the survey which yielded demographic and socio-economic data used by the organization to come up with its proposed community development plan, or “people’s plan.” *Kabalikat* was assisted by another NGO in coming up with the plan which took into account the people’s preferred housing designs, expressed needs for livelihood and their capacity to pay.

Between 2001 and 2004, three big fires broke out in the informal settlement. The fires occurred in March 2001, March 2002, January 2004. A fourth fire happened in January 2010 while this study was being undertaken. Some residents suspected that the fires were deliberately set in order to remove certain families from the list of qualified beneficiaries of the land proclamation. However, no formal complaints were filed nor any investigations conducted. Instead, after each fire, community members had to fight the authorities for them to be allowed to return to their former places of residence. Fortunately, *Kabalikat*’s community survey in 2001 could be used as basis for determining which families should be allowed to return to the sites where the fires occurred. These negotiations had to be done repeatedly and the people had to assert their right to return to their former home sites and their eligibility for lot awards.

As a result of *Kabalikat*’s efforts, some 700 homeowners were the first to be awarded lots. *Kabalikat* continued to defend the rights of the renters and sharers, who were eventually given lots in a new site within the area.

The government invited two NGOs to put up 2,000 houses for the people in Baseco. Although initially some of the people refused the new houses because they could not understand why they should be made to pay for them or provide voluntary labor for building them, they eventually agreed to accept these in the hope of seeing real physical development in the area.



Shanties on stilts at the port area in Baseco, Manila

© John Lagman

BOX 7.2: ISSUES THAT CAN HAMPER THE DISPOSITION OF “PROCLAIMED LAND”

In this particular example of the presidential land proclamation in Baseco, three issues appeared critical for tenure regularization to proceed, after the initial proclamation was issued. These issues were: 1) the determination of the qualified beneficiaries, 2) the suitability of the site for residential use, and 3) securing an agreement among the key stakeholders and authorities on the allocation of land uses within the proclaimed area.

Although it had been agreed upon that a survey done in 2001 would be used as the basis for determining which families would be entitled to receiving tenure on the basis of the proclamation, disagreements arose as to whether sharers and renters would be granted the same rights as homeowners in the disposition of land. While the community organization wanted to include sharers and renters among the qualified beneficiaries, the government proposed a scheme giving priority to homeowners, but no assurance that renters and sharers would be awarded lots. This scheme was similar to that adopted in resettlement projects implemented by the NHA and had become a standard policy and practice in government social housing projects. The argument behind the policy was that renters and sharers would (and should) simply continue to rent or share in the new housing unit/lot awarded to the house owner. Ultimately, however, the post-proclamation guidelines issued by the HUDCC did not discriminate between structure owners and renters. The eligibility criteria included only those stated in the UDHA, namely: 1) Filipino citizen, 2) underprivileged and homeless, 3) does not own any real property whether in a rural or an urban area, and 4) not a professional squatter or member of a squatting syndicate.

The suitability of the site for residential use became an issue because the subject property stood on improperly reclaimed land. While a technical solution was found for the problem, what prevented the implementation of the solution was the refusal of the community to submit the area to “soil rectification”, as proposed by the government. Underlying this refusal was the community’s distrust of the government which fueled the suspicion that the government would not allow the residents to return to the area after they had vacated it to give way to soil rectification. Also major issues were the cost of the soil rectification procedure, whether the people would have to pay for it, and which agency would bear the cost.

The third critical issue which delayed the disposition of the land was the failure of the different stakeholders to agree on the actual size and location of the socialized housing site. This matter would not have been an issue had the actual proclamation been definite and explicit. The wording of the proclamation implied that the entire 52 hectares would be subject to disposition, with some exclusions.

Further work on developing the area and processing the lot awards had to stop when, in 2005, the Philippine Reclamation Authority declared the land in Baseco Compound unsuitable for building even one-storey residential structures. An environmental compliance certificate could not be issued for any social housing project on the site, once again hampering the disposition of the proclaimed land.

In 2008, LIAC was replaced by a project inter-agency committee (PIAC) constituted by Kabalikat and other community organizations, which had then been working on the formulation of the implementing rules and regulations of Presidential Proclamation 145.⁴³

What the Baseco case demonstrated was that the more critical issues were political and institutional in nature. The legal basis of the proclamation was clear and uncontested; the formal procedures were more or less established by the general guidelines issued by HUDCC. The technical issues on qualifying beneficiaries and soil characteristics could, on the other hand, be sorted out; but the existence of a climate of distrust and different political agendas muddled the land disposition process. The institutional arrangement of the LIAC was unable to resolve the divergent agendas of the city government, the national government and the community.

7.2.2 Four presidents and an unfinished proclamation

The following case involving the The National Government Center (NGC) shows that it can take decades before the beneficiaries of a presidential proclamation can receive titles to their lots. Disagreements on maximum lot sizes and land use allocations particularly in so-called “economic zones”, squatting syndicates, and the lack of continuing financial support for the project were partly responsible for the long disposition process. Intermediate tenure instruments nonetheless made it possible for the residents to enjoy security of tenure and relative freedom from the threat of eviction.

In 1975, President Marcos issued Proclamation 1826 reserving 444 hectares of an area in Quezon City to constitute the NGC. The NGC Development Committee was created and a survey undertaken in 1979, to establish the boundaries of the NGC.

In 1987, acceding to a request made by informal settlers occupying the NGC site and fulfilling a campaign promise she had made before she was elected President in 1986, Corazon Aquino issued a presidential proclamation declaring 150 hectares in the West Side of the NGC for distribution to the residents. In 1998, President Fidel Ramos declared 238 hectares of the East Side of the NGC available for government offices and socialized housing. On May 2003, President Gloria Macapagal-Arroyo signed Republic Act 9207 granting tenure to bona fide residents of the NGC and affirming the validity of the earlier presidential proclamations. The NGC land proclamation was quite unique in that a special law was enacted to provide a stronger legal basis for proceeding with the land disposition in the NGC, in the face of many lawsuits contesting the validity of the proclamations.

Across several administrations, changes occurred in the institutional arrangements for implementing the proclamations. Under President Aquino (1987-1992), the HUDCC acted as administrator and created the NGC Housing Committee (NGCHC). As trustee, the Home Guaranty Corporation (HGC) received a yearly appropriation from the national government and held the titles to the properties contained in the NGC.⁴⁴

⁴³ Other members of the PIAC included the City of Manila, the HUDCC, the NHA, the DENR, PCUP, and DPWH.

⁴⁴ A sizeable portion of the NGC (about 136 hectares) was covered by a private donation to the government. But a presidential proclamation (1826) expanded the coverage of the NGC land and decreed the reservation of over 400 hectares part of it. Still, many land parcels were privately-owned and had to be acquired first before the land could be disposed to the residents.

BOX 7.3: THE NECESSITY AND USES OF INTERMEDIATE TENURE INSTRUMENTS

Also in the West Side were about 10,000 amortizing beneficiary families and some 1,000 families that had already completed their payments and received titles. In the East Side, 1,000 families had started paying amortizations, while 50 out of 20,000 potential beneficiaries had received titles, as of this writing. According to the pre-project census, the households in NGC West totaled 25,000. That the number of generated lots in it was only 22,000 meant that an additional 3,000 households had to be relocated to the adjoining municipality of Rodriguez. There were also families displaced by the road alignment and development of the commercial strip along the highway. These families were relocated to 1,725 housing units in medium-rise buildings built by NGC West.

In the early stages of project implementation, the following steps were taken. First, resident families were given Beneficiary Qualification Stubs upon being interviewed for the census. Based on the criteria for beneficiary qualification in NGCHC's Code of Policies, families included in the census were qualified. The names of the qualified beneficiaries were then put in the master list, after cross-checking these against NHA's alpha-list of all previous awardees of NHA's social housing projects. Residents whose names appeared in the alpha-list were disqualified, while qualified families received Certificates of Project Qualification. Groups of families belonging to a community were organized into HOAs which, in turn, contracted the survey works and the drawing up of subdivision plans. The subdivision plans with the technical descriptions of the individual home plots were then submitted to the Department of Environment and Natural Resources (DENR) for approval. Once approved, award processing commenced. Sometimes, while the processing was under way, the project office issued certificates of title reservation (CTR) to qualified families upon request. Upon completion of the processing, the beneficiary received a notice of award (also called "Individual Notice of Award" or INA). The parties thereafter signed a contract to sell, at which point the beneficiary families began to pay their monthly amortizations.

DPWH was in charge of buying the privately-owned lands, but the titles were placed under HGC. This arrangement continued under President Ramos (1992-1998).

Then, under President Estrada (1998-2000), the administration of the East Side of the NGC was transferred from HUDCC to the Presidential Commission for the Urban Poor. In 2005, under President Arroyo, the NHA became project trustee, replacing the HGC. It also undertook the management and supervision of the project, in lieu of NGCHC. In the absence of a yearly appropriation, NHA was instructed to use the trust fund from the HGC, as well as its own corporate funds to finance activities related to land disposition. In the meantime, from 2005 onwards, DPWH stopped acquiring privately-owned lands after failing to receive new funds for land acquisition from the national government.

As of 2009, about 4.5 hectares in the West Side, which had approximately 650 families, remained unacquired. In the East Side, 129 hectares underwent judicial reconstitution because there were no existing titles to establish their ownership. Once the full payment was made, a deed of sale was prepared and a title issued in favor of the beneficiary.

Later, when the NHA assumed administration of the project, the process was simplified: Stubs and certificates were done away with so that the first document the beneficiary got was the notice of award. The NHA also noticed that there were many cases of unauthorized transfers of census stubs, which led to disputes and complicated procedures for verifying the rightful beneficiaries. Doing away with the stubs and certificates would not have been a problem if the process of qualifying beneficiaries and processing the award did not take long. However, many factors delayed the processing. These normally involved satisfying the requirements of a notice of award, such as the completion of the survey works and securing an approved subdivision plan. In some cases, the acquisition of land by the government was also held up for reasons such as lack of funds for acquisition and pending lawsuits involving land valuation. Currently, there are Certificate holders in the still unacquired properties in the NGC West Side. As far as they are concerned, issuing intermediate rights-based instruments may actually protect their rights as the intended project beneficiaries, especially if changes take place in the administration and in the institutional arrangements and policies governing the project.

7.3 LEGAL, INSTITUTIONAL, AND GOVERNANCE FRAMEWORKS

The policy and practice of providing tenure security to informal settlers through presidential proclamations were further strengthened by the UDHA. For while the law did not specifically cite or mandate the adoption of this particular approach to provide legal tenure to informal settlers, it directed the government to make idle government-owned lands not used for ten years prior to the law's enactment, available as social housing sites.⁴⁵

This specific provision became the legal basis for a memorandum order issued by President Arroyo in 2002, making presidential land proclamations a formal policy with a more general application and establishing the same as a formal step leading to the regularization of the tenure of informal settlers. Following the issuance of the said executive order, the President issued Memorandum Order 74 directing HUDCC to formulate post-proclamation guidelines, thus standardizing the processes for the disposition of government-owned lands to informal settlers. The HUDCC also issued the implementing guidelines for the pre-proclamation process.

Memorandum Order 74 specifically directed HUDCC to confer and coordinate with the local government which had jurisdiction over a given proclaimed site, to plan and expedite the disposition of the proclaimed site to the bona fide occupants, toward the granting of titles to them. The said memorandum order also stated that the funds necessary for carrying out the requisite activities would be incorporated in the annual budgets of HUDCC and of the participating agencies under the General Appropriations Act. This meant that the participating agencies should incorporate the post-proclamation activities in the budgets they would submit to Congress, to ensure funding. Congress could decide not to grant the full amounts

⁴⁵ Article IV Section 8 of RA 7279 states that "Government-owned lands under paragraph b of the preceding section which have not been used for the purpose for which they have been reserved or set aside for the past ten (10) years from the effectivity of this Act and identified as suitable for socialized housing, shall immediately be transferred to the National Housing Authority subject to the approval of the President of the Philippines or by the local government unit concerned, as the case may be, for proper disposition in accordance with this Act". The government-owned lands covered by "paragraph b" are those "owned by the national government or any of its subdivision, instrumentalities, or agencies, including government-owned or controlled corporations and their subsidiaries."

requested. As noted in the case of the NGC, the budget for land acquisition activities was cut in 2005, as were the appropriations which HGC previously received from the national government for the post-proclamation and site development activities. Funds for the post-proclamation activities were also apparently vulnerable to changing political priorities.

The institutional arrangements for implementing presidential land proclamations were laid out in the post-proclamation guidelines issued by HUDCC, which assigned appropriate roles and tasks to HUDCC itself, to the land administrator, local governments, and the communities. The establishment of a project inter-agency committee for each proclaimed site was mandated, in order to oversee the implementation of the land disposition process. Its composition was specified in the guidelines.⁴⁶

A National Steering Committee was likewise established to oversee the implementation of the post-proclamation guidelines and activities of the PIACs. HUDCC was to serve as the NSC's secretariat.

The post-proclamation activities were spelled out as follows: 1) the conduct of social preparations, including community consultations and census and tagging, 2) beneficiary selection and arbitration, 3) physical development, and 4) estate management. The guidelines also stipulated the land valuation and pricing policy. Valuation was to be based on the zonal valuation but was not to be lower than the assessed value. It would follow the rules for valuation set by the Department of Finance or the DENR.⁴⁷

The tenure arrangements allowed by the guidelines included the following: 1) ownership through sale, 2) lease with the option to purchase, and 3) usufruct, with an explicit preference for the first two.⁴⁸ Financing for the purchase of lots was to be provided through the home financing facilities of the HDMF or Pag-IBIG Fund, CMP of the SHFC, the GSIS, the Social Security System, and local government-initiated financing schemes.

There is a prohibition against the sale, conveyance, encumbrance, or leasing of the awarded lots by the beneficiary, except to qualified beneficiaries as determined by the concerned government agency, that is, the land administrator or the local government. The prohibition would be in effect for ten years after the issuance of the title in the name of the beneficiary. This is a more liberal policy on the resale of lots compared to other government social housing programmes, which prohibit any resale or transfer of award by the original beneficiary within ten years of the receipt of a title, and throughout the period before the issuance of a title, even to a qualified beneficiary. These rules were based on the restrictions imposed by RA 7279.

Under these guidelines, the local government and the land administrator play key roles in the implementation of post-proclamation activities and the land disposition process. Depending on the level of interest of the local government, it can play a decisive or a minimal role. In the Baseco case, the

⁴⁶ The guidelines state that the PIAC shall be composed of, but not be limited to, the following agencies: HUDCC, PCUP, DENR Land Management Service, people's organizations, non-government organizations, and the local government concerned. It shall be chaired by the landowner or the duly designated administrator.

⁴⁷ The pertinent rules are contained in DOF Circular 1-97, and for proclaimed sites administered by DENR, in Department Administrative Order (DAO) 98-20 known as the "Revised Rules and Regulations on the Conduct of Appraisal of Public Lands and other Patrimonial Properties of the Government."

⁴⁸ The guideline states that "In certain justifiable cases that are mutually acceptable to the concerned parties, the government may resort to usufruct as an alternative mode of tenure arrangement." (Sec 16) This means that the adoption of a usufruct arrangement requires "justification", while the other two modes of disposition do not.

BOX 7.4: A SUCCESSFUL PRESIDENTIAL PROCLAMATION

One case of a relatively successful presidential proclamation (in the sense that the land disposition process proceeded relatively smoothly and lot awards were given within a short time) is that involving the property owned and administered by the Civil Aeronautics Administration in Las Piñas City. The site was proclaimed in 2000 by President Estrada. A social housing project was then inaugurated on the site in 2002 by President Arroyo, who gave high priority to issuing proclamations during the first four years of her term. The project was to benefit 8,000 informal settler families.

The NHA was made administrator of the project under the Memorandum of Agreement forged with the Air Traffic Office, the landowner. The local government assumed responsibility for the site development, while the congressional representative of the district, who was the sister of the mayor, used her congressional fund allotment to provide water, electricity, and housing assistance.

The agencies decided to include the costs of the land survey and titling fees in the monthly amortization, thereby avoiding the problem encountered by several community associations in the NGC, whose members refused or could not afford to pay for the survey works and titling fees. As project administrator, the NHA conducted the census, the socio-economic survey, and occupancy verification. It issued certificates of lot allocation as the first intermediate tenure instrument after beneficiary qualification. Socialized pricing of the lots was adopted, starting at a minimum price of Php1,000 per square meter. The individual notices of award were issued within three months after the beneficiaries were qualified. The NHA revised its rules so that the General Manager no longer had to sign the notices of award. Instead, the Area Manager for NCR was authorized to sign them, making the process faster. After only eight years, the project began titling. Such was the amount of time Baseco used up to simply settle the issue about beneficiary qualification and selection.

“*In the Baseco case, the local government played a lead role and exercised its authority over major decisions.*”

local government played a lead role and exercised its authority over major decisions, such as the formulation of beneficiary qualification criteria, deciding on which census to recognize as the basis of the master list, and inviting NGOs to undertake housing projects in the area. In the NGC, on the other hand, the local government was practically uninvolved, while HUDCC and NHA were the principal players. One obvious reason behind this set-up was that the land disposition process had been far advanced in the NGC when the post-proclamation guidelines were issued in 2007.

7.4 THE PEOPLE'S PERCEPTIONS OF THEIR ACQUIRED SECURITY OF TENURE

Residents of the Baseco-proclaimed site consider the issuance of the proclamation a major step towards the acquisition of legal tenure. They feel more secure now than before the area was proclaimed, in the sense that they expect to be given land titles in the future. However, their perceived security is not 100 percent, as there are unsettled issues regarding the suitability of certain areas for residential structures. In their view, this could result in their displacement (for example, if the number of beneficiaries exceed those that could be accommodated in the buildable portions of the

site). The frequent fires in recent years have also fueled speculations that the local government would like to remove some structures. In the NGC, people currently feel a greater sense of security compared to the residents of Baseco, because of the distribution of lot awards. Many areas are now being re-blocked, an undertaking which the residents view as stronger evidence of security because it signals government's resolve to transfer ownership of the home plots to them.

7.5 BENEFITS AND LIMITATIONS

The process is simpler. One obvious advantage of a presidential proclamation is its ability to grant residents of informal settlements some degree of security or protection from eviction, without their having to undergo the long, normally arduous process of acquiring land through purchase. It also provides reasonable security against eviction on a much larger scale, compared, for instance, to the CMP. For while a CMP project usually has 50 to 100 beneficiary families, one presidential proclamation can benefit tens of thousands of beneficiary families. Thus, while CMP deliveries in a year average about 12,000 families, several proclamations signed in a year could easily benefit as many as 100,000 families, as happened in the first three years of the Arroyo administration (2001-2004).

Facilitates the provision of services to informal settlements. Observers both within and outside government have noted that the issuance of a presidential land proclamation has mostly been occasioned by political reasons more than by a government policy for regularizing informal settlers. A presidential proclamation can moreover persuade governments to provide basic services, upgrade informally settled communities, and institute a tenure regularization programme on these sites. As one FGD participant noted, a proclamation is actually unnecessary or superfluous if the local government were doing its job under the UDHA.

7.5.1 Curbs squatting syndicates

Aside from putting pressure on local governments to regularize the tenure of informal settlement, it has also challenged syndicates or private landowners legitimately or illegitimately claiming lands occupied by informal settlers. It can expand the scope of lands made available to the urban poor beyond that which is normally possible following purely market transactions or judicial processes. One focus group participant from HUDCC noted that while the process of reclassifying land from forest land to residential land can take decades, informal settlers can enjoy virtual security of tenure on the strength of a presidential proclamation, while waiting for the reclassification to be finalized.

7.5.2 Delays in land acquisition

This is not to say that all it takes is a president's signature to grant informal settlers tenure security through a land proclamation. The pre-proclamation process can be just as arduous and protracted as, for instance, negotiating a land purchase with a private landowner and getting a CMP loan approved. In fact, experiences in getting a land proclamation signed have been mixed. While some proclamations had to go through the proverbial eye of a needle, others were facilitated by political pressure or influence. The government officials interviewed or those who participated in the FGDs also observed that the proclamations were more often used as political tools rather than genuine policy instruments providing tenure security to the urban poor. Certain lands were proclaimed even before "complete staff work" was achieved. In the two cases presented in this study, certain technical issues were sidelined or glossed over, just to have the land proclaimed for the sake of political expediency.

“*The disposition of land under a presidential proclamation is vulnerable to politicization under existing institutional arrangements.*”

7.5.3 Politics

The technical problems are not insurmountable. With some political will, those in charge can find solutions. But a proclamation may also be held hostage to the interests and agenda of the powers that be. The disposition of land under a presidential proclamation is vulnerable to politicization under existing institutional arrangements. The President may likewise choose to give high or low priority to a certain proclamation, and consequently decide how much resources would be made available to it. The NGC experience is a case in point.

Similarly, a local government can block the implementation of post-proclamation activities, if the beneficiary community happens to be the bailiwick of a rival politician. In the case of Baseco, local politics can play out to the advantage or disadvantage of the residents. An incumbent mayor could conceivably try to please the residents; but if he loses in the elections, the winning mayor could well overturn the initiatives of the previous mayor.

7.5.4 Weak accountability

The fact that the post-proclamation and land disposition processes are not cast in stone can be both an advantage and a disadvantage. The lead agencies can make the process less bureaucratic. They can also adopt various tenure arrangements and instruments to expedite the land disposition process and make it more affordable. However, the downside is that accountabilities, even if spelled out in the post-proclamation guidelines, are very weak. If an agency does not follow the guidelines, there is no authority that can compel it to act.

7.6 LESSONS AND CHALLENGES

7.6.1 Facilitating factors

The case in Box 6 presents some success factors which can facilitate land disposition under a presidential proclamation. One is the fact that the property had just one owner. Secondly, the agencies involved in the project had a cooperative relationship with each other. It also helped that the

local government had an efficient UPAO assisting the NHA in the social preparation activities. Because the city had been undertaking the CMP in many of its urban poor communities, the families in the Civil Aeronautics Administration housing project based their expectations with regard to pricing and beneficiary selection policies on those of the CMP.

They were prepared to enter into negotiations and agreements wherein the cost of survey works and titling would be undertaken by the beneficiaries, and monthly amortizations would have to be paid. There were no long discussions on these issues amongst the residents.

In contrast, in the NGC, the issue of whether the survey works should be paid for by the beneficiaries became a source of conflict and delay. Some HOAs asked the mayor of Quezon City to create a fund and make it available for the survey works, instead of passing on the cost to the beneficiaries. The local council of Quezon City approved the request in December 2009 (year 2010 being an election year), after long delays in the land disposition process.

7.6.2 Strong community organizations

Because most of the post-proclamation processes were left to the initiative of the local government or the land administrator, a presidential proclamation was not self-executing. Aside from the political will of the implementing agencies, the pace and progress of the land disposition process depended on the strength and skills of the community associations.

Both Baseco and NGC had community organizations skilled in negotiations and in preparing community development or people's plans so that even if the projects encountered delays, the strength of the organizations made it possible for the projects to proceed. However, both Baseco and NGC also illustrated that arriving at a consensus within and amongst the different community organizations could sometimes be difficult, and could lead to project delays.

7.6.3 Protecting renters and spillover households

Another challenge encountered in the NGC which may have also been encountered in other proclaimed sites, was how to protect renters against eviction by house owners. Whenever a site is proclaimed, government policy dictates that actual occupants, including renters, have priority to become project beneficiaries over absentee house owners. Yet, absentee owners are motivated to evict renters so that they, instead of the actual occupants, would be registered as project beneficiaries. Beneficiary selection criteria, census taking, and occupancy verification methodologies and policies need to be tightened further to protect actual occupants.

Reblocking which is sometimes necessary to make a community conform to the approved subdivision plan, could give rise to "spillover households" that cannot be accommodated within the proclaimed site. This happened in the NGC. Negotiating and achieving consensus on a suitable and acceptable relocation site could entail a long and difficult process.

“*Arriving at a consensus within and amongst the different community organizations could sometimes be difficult.*”

7.6.4 Squatting syndicates

A serious challenge experienced in the NGC was the presence of squatting syndicates. Where land registration records were messy or suspect, as was the case in a particular area of the NGC, many informal settlers fell victim to syndicates pretending to be representatives of the legal owners of the land. A common *modus operandi* of syndicates is to collect money from residents and file a case in court contesting the ownership of the land on the basis of a spurious title. Because it normally takes years for a land case to be settled by the courts, the syndicates can continue to collect money from the residents while the case awaits the court's decision. This is another instance where the acquisition of a privately owned real property could be delayed.

7.6.5 Pricing the land

Another cause of delay encountered in the NGC was disagreement over the price of the land. Some landowners have filed cases in court contesting the price at which government offered to buy the land. There have been cases too where the landowner was in collusion with the judge.⁴⁹

Government agencies that own lands cannot price their properties low because if they did, they would be violating policies of the Commission on Audit. But pricing their properties high would make the land unaffordable to a proclamation's intended beneficiaries.

How to secure exemptions from stipulations such as these, where land is to be used for social housing, poses a legal challenge. Although the government can decide to give subsidies, the size of the subsidy and the existence of better uses for the funds need to be considered. Many people think that because land is owned by a government agency, it can be given for free. But while theoretically the use of the land could be given for free, its ownership cannot be transferred without cost because existing legal provisions prohibit this. Only a law can amend such provisions.

7.6.6 Funding

The source of funding for the implementation of presidential proclamations varies per project site. In NGC, the national government funded the implementation. In Baseco, Habitat for Humanity took care of the housing costs, while the LGU shouldered the cost of beneficiary tagging and the census. In Las Piñas, the LGU developed the area and put in the basic services, while the NHA served as the originator via the CMP.

7.6.7 Danger of reversals

A presidential proclamation can be revoked and, in this sense, cannot guarantee full security of tenure. Some cases of revocation have involved lands not suitable for habitation or those violating certain legal provisions. Two examples are the "Lupang Arenda", which is land on a lakebed, and the Manggahan Floodway, both of which are inhabited by thousands of families. Proclamations providing for their disposition to residents are believed to have been issued due to political pressure.

⁴⁹ In one case recounted to this researcher, the asking price of the landowner was Php3,500 per square meter. When the case was resolved, the judge ruled that the selling price should be Php5,000 per square meter. In this particular case, the government decided not to pursue the acquisition because it would have been too disadvantageous to the government. Note that the presidential proclamation governing the NGC pegged the price to be paid by the beneficiaries at only Php700 per square meter.

7.7 SUMMARY

The disposition of government-owned lands to their informal settler occupants through a land proclamation has been an established policy and practice in the Philippines for providing secure tenure to urban informal settlers. A land proclamation usually takes the form of an executive order issued by the President. A presidential proclamation these days normally involves government-owned land which is declared available for disposition to families occupying the subject property, informal settlers residing in other areas, and employees of government agencies or local government units. But some presidential proclamations involve privately-owned lands which the national government acquires through expropriation or simple negotiated purchase and then disposes to the intended beneficiaries.

The processes involved before a property is proclaimed are laid out in a set of “pre-proclamation” guidelines issued by the HUDCC. In general, these processes aim to ascertain the ownership of the property, the legal basis for its disposition, and its suitability as a social housing site. A set of post-proclamation guidelines guides the steps and institutional arrangements for implementing the land disposition process. The typical steps involved in the land disposition process include the conduct of a census and occupancy verification survey, the issuance of intermediate tenure instruments such as the certificate of entitlement to a lot allocation, certificate of lot award, notice of award, and contract to sell. The ultimate form of tenure provided can be full ownership through a title deed or usufruct.

Among the recognized benefits of presidential land proclamations are the simplification of the process of providing security to informal settlers from forced eviction and facilitation of the provision of basic services to poor communities. Land proclamations can deliver these benefits to a large number of poor families in a relatively short period of time.

The usual problem encountered in land proclamations is the slowness in the formal disposition of the land, which can be caused by several factors including, unclear institutional accountabilities, re-blocking issues involving conflicts among residents, technical issues such as suitability of the land for residential use, and lack of funds for the conduct of survey works and for land acquisition (in the case of private lands included in proclaimed areas). These issues however could be remedied through improved institutional arrangements and operating procedures. There have been a number of successful cases of land disposition under a presidential proclamation. A key facilitating factor in these cases has been effective institutional arrangements, particularly the active leadership of the local government.

The role of community organizations is also a critical factor for facilitating the land disposition process. Community organizations help forge valuable consensus within the community on important policy questions, ensure that the interests of vulnerable members are protected, negotiate with authorities on behalf of the community and can help access resources from external groups for various community needs.

8. USUFRUCT

The implementation procedures for providing secure tenure to informal settlers through a usufruct arrangement are still largely undefined. For while the usufruct arrangement is mentioned in the UDHA and in some presidential proclamations as a possible housing tenure arrangement, there is no government programme or distinct policy which purposely promotes its use in the Philippines. Its practice is limited to a few local governments and private landowners who take the initiative to allow poor people to use their lands.

8.1 FEATURES OF THE APPROACH

Because of the shortage and high value of lands in the cities, government and non-government entities have begun experimenting on ways of providing tenure to the urban poor without land ownership. Some local governments have made available land owned by them for low-income housing developments under a usufruct arrangement. The local government retains ownership of the land, but poor families are allowed the use of the land for 25 to 50 years, renewable if mutually agreed upon. In most cases, a private entity or non-profit organization constructs the housing units for which the families amortize payments over 20 to 30 years. Because the users do not have to pay for the cost of the land, amortization payments are affordable.

The beneficiaries under a usufruct agreement are entitled to enjoy nearly all rights of ownership, except the right to have a legal title and to alienate or dispose property. This peculiar property right is entrenched in the Civil Code of the Philippines or Republic Act 386, Articles 562-612.

“*Because the users do not have to pay for the cost of the land, amortization payments are affordable.*”

8.2 TWO CASES WHERE USUFRUCT HAS BEEN USED

8.2.1 The Taguig-Habitat Medium-Rise Buildings

The local government of Taguig under Mayor Freddie Tinga considered the usufruct scheme a speedier and cheaper way of providing housing and secure tenure to informal settlers, in lieu of land disposition schemes involving the grant of land titles. Thus, the city made it a policy to develop housing programmes for informal settlers using the usufruct arrangement. Confronted with the problem of relocating some 25,000 informal settlers, Taguig welcomed the idea of Medium-Rise Buildings (MRBs). To this end, its LGU (under the administration of Mayor Freddie Tiñga), through its Local Housing Office, ventured into a partnership with the NGO, Habitat for Humanity Philippines (HFHP). The target beneficiaries of the partnership’s housing project were the informal settlers and renters living in the city. To qualify, they had to have been Taguig residents for at least five

years, registered voters with no property anywhere else in Metro Manila, and had to have at least one income-earning family member.

Through a city resolution, the local government approved the application of HFHP's residential development project on a parcel of land in Pinagsama

BOX 8.1: TERMS AND ARRANGEMENTS IN A HOUSING PROJECT UNDER USUFRUCT

Taguig City's medium-rise housing development, the first social housing project by a local government to make use of the usufruct approach was made possible through the partnership among the city and two NGOs, Habitat for Humanity Philippines (HFHP) and PBSP under the STEP-UP project. The city government provided the land, the HFHP through the Habitat Community Partnership Program of the European Commission financed building construction, and PBSP provided P70,000 of the P220,000 total unit cost or loan amount per beneficiary. The borrower put in P20,000 as cash counterpart aside from labor counterpart and the balance was covered by Habitat for Humanity using EU monies. This pooling of funds is an important strategy because MRBs are more expensive than individual core houses normally provided by the NHA or the CMP.

Prior to the construction, regular meetings, consultations, and assessments were conducted among the intended beneficiaries, HFHP, Taguig's Local Housing Office, and local representatives of the NHA, DENR, and DPWH. Basic services were later added using funds for site improvement from other projects. Other city government offices such as the Local Utility Board and Engineering Office also took part in the construction of drainage and roads.

The screening of intended beneficiaries based on the housing application forms was handled by the Family Selection Committee of the Local Housing Office and was validated based on the inventory of the city's informal settlers. Before units were turned over, HFHP met with qualified beneficiaries and conducted an orientation discussing the contents of the "Kasunduan sa Pagbili/Pag-upa" (Contract of Lease or Sale). The rights and obligations of HFHP and the home partners with regard to the rent and eventual disposition of the unit were clarified.

As stated in the contract, the beneficiaries' use rights did not include ownership of the land on which the building stood. Beneficiaries were also not allowed to resell or rent out any of the MRB units awarded to them, without the written consent of HFHP and Taguig. Those who agreed to the terms were organized into associations registered as the Forward Taguig Neighborhood Association (Pinagsama) and the Habitat-Bagumbayan Neighborhood Association (Bagumbayan). The associations maintained membership savings allotted for the repair of the buildings. Regular values-formation and capacity-building seminars were also conducted with the beneficiaries.

As the usufructuary, HFHP had been paying Php1 per year to the city government. On the other hand, per the terms of payment for the housing units indicated in the contract between the beneficiaries and HFHP, the total price of a 36-sq. m. unit was Php 180,000. Each beneficiary raised Php 20,000 in cash equity, of which Php 5,000 had to be paid upon getting the unit. The balance of Php160,000 was to be amortized over 15 years at a yearly interest rate of 8 percent, resulting to a monthly amortization of Php 1,500. Failure to pay within the agreed date meant a penalty of 2 percent. Collection was done by the Habitat Finance Officer. Aside from the cash payment made by a beneficiary, sweat equity of 1,000 hours during the construction of the buildings was mandatory.

Village, Western Bicutan. Consequently, three-storey condominium buildings were erected on land owned by the city. Units were turned over to 60 beneficiaries in 2004. Thereafter, more Habitat-MRBs were constructed in Barangay Bagumbayan and turned over to 48 beneficiaries in 2006.

Taguig's latest completed social housing project employing the usufruct arrangement was on a property known as the Food Terminal Incorporated (FTI) Compound. FTI was a government-owned corporation.

A Memorandum from the President dated February 2004 directed FTI to convey to the municipality of Taguig the use of a portion of the FTI complex for socialized housing. The Taguig LGU and FTI then entered into a MOA allowing the former to use a portion of the property for socialized housing on usufruct terms, in exchange for the unsettled real property taxes of the latter. The local government and HFHP considered the project the best, since it was an improvement over the previous Habitat MRBs in terms of design and technology. But its units were relatively smaller. The project was funded by the Rotary Club of Manila which commissioned HFHP to serve as builder.



Taguig is the latest socialized housing venture of HFHP © Gladys Rabacal

The project yielded 96 housing units with a floor area of 26.10 square meters each, dispersed across eight buildings. The tenure arrangements were similar to those for Pinagsama and Bagumbayan, but buyer's financing would be sourced from the Pag-IBIG Fund.⁵⁰ Upon the take-out of a Pag-IBIG loan, a Contract to Sell would be issued to the beneficiaries. Monthly amortization on the unit was Php 950, payable over 25 years. City employees, teachers, Philippine National Police and military personnel, and other qualified informal settlers formerly residing in the FTI Compound were the target beneficiaries.

8.2.2 Southville 3 Muntinlupa Housing Project

The use of the usufruct arrangement in the resettlement of informal settler families displaced from the rights-of-way of the Muntinlupa segment of the Rail Linkage Project-Southline (also known as the South Rail Project) deviated from the social housing practice of both the local government of Muntinlupa and the state-owned NHA. For several years, Muntinlupa City was implementing a city-wide social housing programme for informal settlers using the CMP approach. NHA on the other hand, which had a primary mandate for handling resettlement projects, had always practiced the distribution of lot awards, and eventually titles, to beneficiaries of its resettlement programmes. In the South Rail resettlement project, both government entities employed the usufruct arrangement.

The large-scale social housing project was the object of Presidential Proclamation 1159 issued on 8 September 2006, which set aside 50 hectares of the New Bilibid Prison Reservation for the housing needs of government

⁵⁰ The Pag-IBIG Fund is a government-managed mutual and pension fund to which all government and private sector employees and employers make a mandatory contribution by law. The primary purpose of the fund is to provide housing finance to its members.



NBP resettlement site in Muntinlupa

© Gerald Nicolas

employees and long-time residents of the area. The proclamation declared that the usufruct arrangement was to be applicable to “dwelling units in government and socialized housing sites for an initial period of fifty years.” NHA, named in the proclamation as the lead agency of all development subprojects within the site, decided to use the property as a resettlement site for approximately 7,000 informal settlers in the city, the majority of whom were to be displaced by the South Rail project. The landowner of the property was the Republic of the Philippines, represented by the Department of Justice; while the usufructuaries were the informal settler families relocated to the NHA-built housing in the resettlement site.

8.3 LEGAL, INSTITUTIONAL, AND GOVERNANCE FRAMEWORKS

Under the Civil Code of the Philippines, usufruct is a peculiar property right that allows the usufructuary to enjoy nearly all rights of ownership, excluding the right to have a legal title to a property and the right to alienate or dispose of the property. It is among the land disposition modes identified in Section 12 of UDHA and carried out by the NHA and LGUs for lands deemed suitable for socialized housing. The terms and conditions of a usufruct arrangement can be stipulated in legally binding documents such as Memoranda of Agreement, Contracts to Sell, and Usufruct Agreements between and among the primary stakeholders involved. These documents specify the period, other terms, conditions, and the responsibilities of the parties concerned. Depending on how the tenure and financing mechanisms are ordered, the usufructuary can either be an institution (e.g., HFHP) or an individual (e.g., the beneficiaries of the Southville 3 housing project).

“*Local and national governments can make available land they own to their poor constituents, without transferring ownership.*”

Local and national governments can make available land they own to their poor constituents, without transferring ownership. In the case of Taguig, its Local Housing Office entered into a partnership with a private non-profit organization (HFHP), which constructed the housing units. The City government also pulled in various private partners to take care of site development in the project areas. In Muntinlupa, on the other hand, the NHA was the lead administrator of a large-scale housing project on a proclaimed site. An inter-agency committee formed to oversee the relocation had for its members representatives of the community and NGOs, and local officials of PCUP and NHA. Muntinlupa’s UPAO and LHB, meanwhile, assisted the NHA in evaluating potential beneficiaries and coordinating other entities for site development.

In general, the builders or developers of houses on lands under usufruct recover their costs of construction, as stated in the usufruct or loan agreement. Beneficiaries pay monthly amortization to the administrators within a specified period; and upon the beneficiaries’ completion of their payments, the housing units (not the land) are considered “owned” by them.

In the case of the Taguig MRBs in FTI, HFHP and the LGU entered a special arrangement with Pag-IBIG to provide beneficiaries (who were Pag-IBIG members) a lending facility, even if they did not have land to serve as collateral. The administrators also monitored the beneficiaries’ compliance with financial obligations and occupancy rules of conduct. Failure to comply with the agreed provisions resulted in eviction from the occupied units.

8.4 THE PEOPLE'S PERCEPTIONS OF THEIR ACQUIRED SECURITY OF TENURE

8.4.1 Felt security

Residents of both sites perceived that they had secure tenure for 50 years. Even more, the Taguig residents had an additional 25 years if they complied with the rules and regulations stated in the contracts. Meanwhile, the Muntinlupa beneficiaries were certain that the usufruct arrangement was a better alternative to the repeated evictions they had experienced in the Bilibid Prison site. Those relocated from the railroad site also expressed the same thought and added that aside from being free of the threat of eviction, they also felt secure because they were no longer likely to experience flooding, the way they had in their previous community.

8.4.2 Proof of security

The usufruct grants on both sites were well documented through the MOAs and proclamations executed. The beneficiaries of Taguig MRBs had with them the Contracts of Lease / Sale signed by the home partners and HFHP. As of this writing, the usufruct contracts in Muntinlupa were still in the process of notarization. The only document the beneficiaries had in their possession was an “entry pass”, stating their promise to abide by the rules and regulations of the housing programme. The entry pass also served as a permit to enter the resettlement site. It did not constitute an automatic award to the unit.

8.4.3 Lobbying for the land

Even though the Muntinlupa beneficiaries were content with the state of their housing, they still aspired and tried to lobby for land ownership. For them, full security of tenure could only be achieved if they possessed a land title that they could pass on to their children. A Taguig beneficiary believed that by the time the usufruct agreement had expired, his child would have had enough savings to be able to buy a house and lot of his own.

8.4.4 A good move by the government

A beneficiary from Muntinlupa concluded that the usufruct scheme was indeed a good move by the government in stopping illegal settlers from proliferating. She believed that the NHA had found a better way to ensure that the poor had really gained access to socialized housing. She found it reasonable for the land not to be owned by the beneficiaries.

There were stories of land titles' having been awarded and then sold in exchange for ample amounts of money. In such cases, the beneficiaries ended up illegally settling again in other places.

Taguig beneficiaries believed that they had entered a good deal cost-wise, while not depriving their fellow city inhabitants of the same opportunity.

BOX 8.2: INNOVATIVE RESETTLEMENT PRACTICE THROUGH USUFRUCT

The Southville 3 Housing Project in Muntinlupa was NHA's first socialized housing project using the usufruct arrangement (see photo above). In early 2007, NHA conducted "social preparations" for the project, through consultations and a series of meetings with the intended beneficiaries composed of the inhabitants of the National Bilibid Prison site and the families affected by the government's South Rail-Linkage Project in the Muntinlupa segment. The South-Rail Linkage project was a "flagship" project of the Arroyo administration and therefore received priority funding through the NHA.

Screening of prospective beneficiaries was done by the Muntinlupa Urban Poor Affairs Office (UPAO), before it was crosschecked with the NHA master list. The NHA gathered the beneficiaries and discussed with them the contents of the following documents it drafted: the Usufruct Agreement between the beneficiaries and NHA, the Loan Agreement, and the Housing Materials Loan Agreement. A LIAC composed of representatives from the city government, PCUP, NHA, and community associations was also formed to oversee the relocation for this particular project.

The housing project yielded 7,253 units, each measuring 20 square meters for the actual house set on a 32-square meter lot. Adding another floor was allowed, but only after a year's worth of payments had been made. Development financing for the project came from the NHA. The total cost per unit (the cost of the land was not factored in) was Php100,000, of which Php25,000 was a subsidy and did not have to be repaid. The payments were calibrated such that the total monthly payments would increase from Php200 in the first year, to Php808 in the last year or on the thirtieth year of payment. The monthly payments were to be made by each beneficiary to the NHA office in Muntinlupa. There was a Php1.50 interest for every month that the payment was delayed.

As stated in the usufruct agreement entered into by NHA and the beneficiaries, the latter would continuously occupy the property exclusively for residential purposes and abide by the NHA's occupancy rules and regulations. The beneficiaries were also required to pay taxes, assessments, and other fees on home improvements. It was also made clear to them that the usufructuary rights were not transferable, except to their heirs in hereditary succession, if qualified under the project's beneficiary selection criteria.

Beneficiaries could be evicted if they were found to have violated any of the restrictions stated in the usufruct agreement. On the other hand, the right of the usufructuary may be extinguished upon the death of the usufructuary, unless an heir was qualified and manifested his/her desire to continue the usufruct relationship. The right may also be extinguished upon the expiration of the agreement, the renunciation of the usufructuary, the total loss of property in usufruct, and the termination of the right of the person conducting usufruct.

8.4.5 Change in city administration.

Earlier, Taguig beneficiaries expressed some degree of insecurity about being ejected from their units if there was a change in the city administration. But ultimately, they felt this would not happen because the project was implemented in partnership with Habitat for Humanity. Apparently, Taguig beneficiaries felt more secure knowing that a housing project was

NGO-sponsored rather than built by the government. Beneficiaries of both sites also believed that it would not be easy for government or any entity to eject them from their housing units because so many agencies had invested money in financing the site development.

8.5 BENEFITS AND LIMITATIONS OF THE APPROACH

8.5.1 Affordability

With usufruct, housing units were made affordable because the land was acquired at no cost. Beneficiaries of both sites agreed that the payment for the units was affordable and reasonable, since they only had to pay for construction cost and site development. The price of each unit could go from Php75,000 to Php180,000, payable in 15-30 years.

Beneficiaries of the Taguig MRB claimed that before they moved to the site, they were paying Php3,000 monthly for rent alone. This was almost three times the amount they were paying for their MRB unit. Nevertheless, despite the lower amount they needed to pay, some residents still had a hard time making the monthly payments because they prioritized paying other bills (electricity, water, school fees).

8.5.2 Addressing the housing needs

Muntinlupa and Taguig are the only Metro Manila cities that have been successful in implementing this approach. Approximately 7,000 poor, displaced families benefited from the Southville 3 project. This number constituted roughly 20 percent of the current social housing need in the city.

As of August 2009, the city government had delivered/completed a total of 512 homes.⁵¹ Two hundred sixty four families out of the 512 were housed by Habitat for Humanity and the LGU under usufruct terms. Meanwhile, 2,189 Gawad Kalinga and Habitat homes were in various stages of completion in different areas of Taguig. An additional 3,908 houses were set for construction and development afterwards, a majority of which would employ usufruct. The city government of Taguig realized that it could provide decent and secure housing to its informal settlers without losing control and possession of the lands it owned.

8.5.3 Restrictions on the beneficiaries

The usufruct approach prevents beneficiaries of housing projects from actually owning the land. Where people live in multi-storey buildings on usufruct land, not only must they adjust to living in densely populated residential structures, they also have limited control over their respective units. Alterations of these units, such as installing window grills, are subject to the approval of the building administrators. Some Taguig residents said - in reference to the experience of “condo living” - that various rules such as restrictions on pets and the playing of videoke at night had to be observed, as violations could be grounds for eviction. Moreover, these restrictions were similarly present in projects not under usufruct.

“*The city government of Taguig realized that it could provide decent and secure housing to its informal settlers without losing control and possession of the lands it owned.*”

⁵¹ City of Taguig Local Housing Office, Status Report of Housing Projects as of August 30, 2009.

8.5.4 Anxiety over the expiration of the usufruct

The beneficiaries in both sites claimed that the initial 50-year usufruct contract was long enough to enable them to enjoy the benefits of “owning” a unit, since the unit was built to survive them. But some beneficiaries were puzzled over what their ownership of the housing unit would mean, upon the expiration of the usufruct agreement on the land after 50 years. Some also worried about what they were going to leave their children, which was why Muntinlupa beneficiaries continued to lobby for land ownership.

8.6 LESSONS AND CHALLENGES

8.6.1 Community organization

Good community organizing helped tremendously in making any new approach work. This was proven in Muntinlupa where the residents were organized for years before they were relocated to the NBP social housing site. Community organizations led the beneficiaries in the preparation of the necessary documents and in their negotiations with the project administrators. In Taguig, however, some collection problems were encountered especially in Pinagsama, because of the low level of cohesiveness of the community organization. Trust and confidence among the members of the organization had still to be strengthened. Community organizing efforts were nevertheless being provided by the city in coordination with Habitat.

8.6.2 Political will

The Taguig case showed that the initiation of a new housing approach depended on the willingness of the LGU to engage in an untried arrangement and develop the needed documentation to provide affordable housing to the poor. The local government also demonstrated initiative in encouraging other entities to contribute to the continuous development of socialized housing sites. The local government’s commitment and initiative attracted the commitment and participation of other actors, especially NGOs and the private sector. Their participation enhanced the pool of technical, financial, and organizational resources available.

8.6.3 Dealing with resistance

Beneficiaries on both sites said that they did not immediately agree to the usufruct terms, especially when they heard that they would not be entitled to own the land. Administrators of both sites claimed that a series of meetings were conducted to discuss with the people the details of the approach and why it was being employed in the city’s social housing projects. In Taguig, very few were initially interested and many did not agree with the terms set forth. But after many people saw the actual units and learned that the previous informal settlers’ new homes changed their owners’ way of life, many began to want to actually own a unit themselves. Overcoming the initial resistance was achieved through persuasion and demonstration projects. Frequent consultations and dialogue proved helpful in raising people’s awareness of the advantages of a particular approach.

8.6.4 Ensuring collection efficiency

Amortization delinquency in the Taguig projects increased when the identified collector in the community was not able to do the job efficiently. Some beneficiaries also believed that because the project was being funded by a donor, it was not fair for the beneficiaries to be made to pay amortization. To solve this problem, HFHP, through its finance officers, took over the collections and made sure that sanctions were imposed on beneficiaries with delinquent accounts. For HFHP, making good payers out of poor payers was a challenge.

NHA conducted “counseling” sessions and gave livelihood assistance to delinquent Southville 3 Muntinlupa beneficiaries. The community association leaders affirmed the urgency of developing livelihood opportunities for them and observed that the Php200 monthly amortization fee seemed small; yet, many found it difficult to pay even the small amount, especially if these breadwinners were into construction and scavenging work.

8.6.5 Continuous site development and livelihood opportunities

For the beneficiaries to appreciate the housing assistance provided them, urban services and economic opportunities had to be accessible. In Taguig, cases of beneficiaries’ coming home on weekends only were common because beneficiaries who worked in distant parts of Metro Manila found commuting daily too costly.

For its part, the Local Housing Office acknowledged that the livelihood component of the MRBs should be strengthened so that beneficiaries would not have to look for jobs far from their dwellings. It therefore invited business groups to help address the livelihood needs of the beneficiaries. PBSP, for instance, distributed Php20,000 to the families that availed of its entrepreneurial loan package.

Security was also a concern of the beneficiaries. Cases of theft reportedly plagued the residents who thus requested for roving guards at night, as well as gates and grills to safeguard their units.

Bagumbayan in Taguig had no access to major roads but this was not worrisome as most of the residents were working within the *barangay* as teachers and vendors. Although a resident claimed that there were plans to construct an access road, she believed that this had been delayed because the city was waiting for other buildings to be constructed.

8.6.6 Policies of housing finance institutions

The latest Taguig MRB in FTI was enrolled in a Pag-IBIG loan mechanism; but the agency’s current policies did not allow take-out under usufruct terms because of the absence of land as collateral. Nevertheless, according to a Habitat officer assigned to the project, consultations regarding the legal requirements of extending a loan for a housing unit under usufruct terms were in progress. In fact, according to the head of the Local Housing Office of Taguig, after negotiations with Pag-IBIG, the agency authorized lending to the housing beneficiaries using the Condominium Certificate of Title as collateral.

8.6.7 Coordination with other government institutions

Administrators of both sites admitted having encountered coordination difficulties with regulatory agencies such as DENR, RD, and the BIR. But this did not hinder Taguig from implementing its social housing projects. The city made it a point to put everything in writing, and to have all transactions and agreements properly documented. The Mayor also personally talked with the concerned offices regarding project concerns.

8.7 SUMMARY

Usufruct is a peculiar property right in which beneficiaries are entitled to enjoy nearly all rights of ownership, except the right to have a legal title and to alienate, transfer or dispose property. It has turned out to be a viable approach to providing in-city tenure to poor people. Two municipalities in Metro Manila, Taguig and Muntinlupa, have applied the usufruct arrangement to respond to the housing needs of their poor constituents.

As of 2009, the city government of Taguig provided housing units in medium-rise buildings to 204 families, in partnership with the NGO, Habitat for Humanity Philippines. In order to retain the city's ownership of the land, the project entered into a usufruct arrangement with HFHP which constructed the residential buildings and provided financing to the beneficiaries. Meanwhile, in Muntinlupa, the National Housing Authority utilized a usufruct approach on a proclaimed land for a large-scale resettlement project in Southville 3 benefiting 7,000 informal settler families displaced from the rights-of-way of the South-Rail Linkage Project and from various areas of the New Bilibid Prison site.

Beneficiaries were provided residential units measuring 20-32 square meters which they could occupy for 50 years. The units were priced from Php 75,000 (rowhouses in Southville 3, Muntinlupa) to Php 180,000 (medium-rise housing units in Taguig), payable in 15-30 years. The price is relatively cheaper compared to other socialized housing products since land was not included in the cost. Such repayment rules and other terms were contained in legally binding documents such as Memoranda of Agreement, Usufruct agreements and Contracts to Sell among the concerned parties.

Resistance on the part of the beneficiaries was initially experienced as no land title would be awarded. Moreover, the maximization of land in areas under usufruct made them live in densely populated residential structures that required them to make adjustments in their way of living. However, these initial hesitations were superseded by acceptance through persuasion and the demonstration of the first successful project. Community organizations were also formed (or retained) to function mainly as negotiators and amortization-collecting bodies protecting the overall welfare of fellow community members.

The accomplishments that this approach has achieved can be credited to the partnerships forged between project administrators and government and private institutions.

“*Usufruct has turned out to be a viable approach to providing in-city tenure to poor people.*”

PART III

**Institutionalizing
alternative tenure approaches**

9. FINDINGS AND CONCLUSIONS

This study documents and draws lessons from the Philippines' experience in implementing alternative approaches in securing tenure for the urban poor. It also explores how these approaches can be institutionalized to achieve a larger scale and ensure sustainability. The study looked at three approaches: presidential land proclamations, the Community Mortgage Program, and the usufruct arrangement. The key features of each approach were described and their application illustrated through two actual cases. The approaches were then analyzed in terms of the legal and institutional frameworks that supported their implementation and the benefits they delivered, both as perceived by the beneficiaries and in terms of meeting the broader social need for secure housing and tenure. The analysis also explored the factors which helped in the successful implementation of the approaches, as well as the constraints and difficulties encountered in the process.

The study of the three approaches has provided insights on the benefits of alternative tenure approaches, in general, and lessons on what worked and where certain difficulties lie. At the same time, opportunities for scaling up and institutionalizing these approaches can be culled from the analysis of the laws, institutions and capacities of stakeholders. Some common barriers that need to be dealt with in institutionalizing and scaling up the approaches have also been identified. These lessons are the subject of this chapter.

9.1 BENEFITS OF INSTITUTIONALIZING ALTERNATIVE SECURE TENURE APPROACHES

9.1.1 Provision of tenure security in locations preferred by the urban poor

The three approaches surveyed in this study present viable strategies for providing secure housing and tenure for the urban poor in locations where they have established viable settlements and livelihoods. They provide an alternative to off-city or distant relocations of informal city dwellers. Among the benefits of institutionalizing alternative approaches like the CMP, presidential proclamations, and the usufruct arrangements is the enabling mechanism it lends to the government's stated policy of providing decent housing and livelihoods to urban poor citizens as contained in existing laws.

9.1.2 Provision of services as a result of formalizing intermediate tenure

Institutionalizing secure tenure approaches could accelerate the regularization of untenured communities, most of which are inhabited by poor households. Our case studies have shown that formalizing the tenure of informal settlements triggered the provision of services to these communities, not only by government, but also by private entities such as utility companies and civic organizations. Even the poor themselves become more willing to make investments in legalizing their water and power connections when tenure is more secure.

9.1.3 The enabling of effective land management

In a situation where the urban population is growing very fast and the supply of land available for housing is decreasing, the need for effective land management by the state is increasingly being recognized. Institutionalizing secure tenure approaches that favor alternatives to private land ownership such as community leases, occupancy rights, rental, and the usufruct arrangement, provides opportunities for authorities to do city-wide planning that is flexible and sustainable because it enables the government to retain control over land which can be used to address future shelter needs.

9.1.4 More affordable secure tenure

Conventional approaches to providing secure tenure to the urban poor mostly aim to confer ownership rights. Alternative tenure approaches like the usufruct, rental, and the use of intermediate tenure instruments do not entail paying for the full economic cost of the land. Thus, they afford poor families the opportunity to gain tenure at a lower cost compared to acquiring a land title. On the part of government, the provision of tenure through freehold titles is also more costly because of the transaction costs involved in providing titles and transferring ownership, which costs are normally subsidized for low-income families. Intermediate tenure instruments such as usufruct contracts and certificates of lot awards enable the government to provide secure tenure more cheaply by not alienating or privatizing land.

The benefits of institutionalizing alternative secure tenure approaches are summarized in Table 6 below.

9.2. WHAT APPROACHES HAVE WORKED?

9.2.1 Intermediate instruments

Intermediate tenure instruments can simplify tenure regularization. Aside from making the acquisition of tenure affordable, alternative approaches have the advantage of simplifying the process of providing legal tenure to informal settlers. The issuance of usufruct contracts or land proclamations is far simpler, cheaper, and takes a shorter time compared to implementing a full titling process.

The experience of communities intended to be beneficiaries of presidential land proclamations in the Philippines has shown that the process of acquiring title deeds takes many years. Rights-based intermediate tenure

TABLE 6. Benefits of institutionalizing alternative tenure approaches

Features	Conventional approaches	Alternative secure tenure approaches
Form of tenure	Individual ownership of lot and housing unit.	Community ownership, usufruct, occupancy right, community lease.
Cost to the beneficiary	Php150,000 – Php180,000 for a typical NHA-provided resettlement lot and housing unit.	Php100,000 for resettlement unit on usufruct land; Php50,000 – Php80,000 for lot only in a typical CMP project.
Institutional arrangement	Responsibilities for implementing all the steps in providing tenure are centralized in one (national) agency.	A range of multistakeholder partnerships involving communities, local governments, NGOs and other private groups. Different modalities of cooperation are possible. Examples: national agency provides housing finance and NGO or local government organizes and assists the community in negotiating land purchase (e.g., CMP), local government provides land and NGO builds housing under usufruct arrangement; local governments share the work and responsibility of providing secure tenure with national agencies.
Tenure instruments	Certificate of award, leading to the grant of a title upon full payment.	Various instruments; mix of intermediate and long-term. Examples: Certificate of lot award, contract to sell, usufruct agreement
Rights enjoyed by holder	During period of amortization: Right to use/occupy but not the right to transfer, lease, sublet or sell. Upon full payment: right to sell, lease, or transfer.	Right to use/occupy, but not the right to transfer, lease, sublet, or sell.
Location and proximity to jobs	Off-city, few livelihood opportunities on-site.	On-site or in-city, easy access to employment and livelihood
Effective city-wide planning and land management	Predominantly privatized ownership of land, which leaves more limited opportunities for government to influence land uses.	Continuing control and ownership by the community or government of land provides more opportunities for government to influence land uses, enforce zoning regulations, and use land resources to meet future shelter needs.
Repayment rates	Low rates of repayment (average of 30 percent)	Higher repayment rates by beneficiaries (e.g., average of 80 percent repayment for CMP and MRBs under usufruct) because of greater willingness to pay since the beneficiaries were involved in all major decisions.

instruments used in some of the proclamation projects can be given right away to residents of informal settlements, while already providing some measure of security to their holders. In presidential land proclamations, a government entity normally owns the land. Issuing a document certifying entitlement to an award, or an individual notice of award is presumed to assure a resident-beneficiary household that it would be provided a lot in the proclaimed site. These instruments serve the purpose of protecting their holder from eviction, thereby conferring virtual tenure security. In cases where full titles are to be provided, these instruments confer security of tenure during the process of titling, which often takes several years to be completed.

In the case of the CMP, the process of gaining legal ownership is likewise long, but because the programme has established a clear procedure for acquiring tenure through the purchase of land from a private owner, there are documents (such as the purchase commitment line and the letter of guarantee issued by the SHFC) which certify that the community is qualified to get a loan and that the government intends to buy the land from the landowner. After the landowner is paid, the title is transferred to SHFC in the name of the community association. Individual households are given a contract to sell. Although the CMP families do not have a title yet, they virtually enjoy security of tenure from the time a letter of guarantee is obtained--normally within some months after an application is filed.

9.2.2 Institutional arrangements that support secure tenure approaches

Government departments are normally equipped with systems and capacities, albeit sometimes inadequate, to undertake activities necessary to the provision of secure tenure. The mandates and capacities of existing public institutions are the building blocks for designing the institutional arrangements for implementing a secure tenure approach. As the case studies have shown, local governments have been able to initiate alternative tenure schemes on their own or in partnership with central government agencies. Local governments are vital actors in initiating and innovating secure tenure programmes because they are in direct contact with constituents, have the resources and capacity to provide direct services, and have the motivation to sustain their initiatives. Government institutions and NGOs involved in housing and secure tenure issues have developed systems and procedures that are appropriate and effective for implementing secure tenure approaches, even though they are frequently constrained by limited absorptive capacity and resources. Many local governments want to provide safe and secure housing to their poor residents, and will benefit from institutionalized partnerships with other governmental and private groups, providing clear mandates, accountabilities and standards of performance.

“*Many local governments want to provide safe and secure housing to their poor residents.*”

9.2.3 Alternatives to private ownership of land

These increase access to secure tenure. High urban land prices increasingly make approaches that rely on titling not only unrealistic because of affordability constraints, but also socially inappropriate, given the large and increasing number of people in need of housing and tenure, and the limited supply of urban land. Collective ownership, and lease and usufruct arrangements do not only bring down the cost of secure tenure, but also allow greater flexibility in generating secure tenure options for a bigger number of households.

TABLE 7. Roles and responsibilities of different institutional actors under the three secure tenure approaches

Institutional actor	CMP	Presidential Proclamation	Usufruct
Shelter agency of the national government (e.g. HUDCC, NHA)	Provides financing for the acquisition of land by a community association	<p>HUDCC recommends unused or idle government land as disposable for socialized housing and the issuance of a land proclamation.</p> <p>Can either be the owner of the land or its administrator.</p> <p>As administrator, it leads, organizes, and funds the activities for the disposition of the proclaimed land to its occupants.</p>	<p>As owner of the land, it grants the right of use to a “usufructuary” or user.</p> <p>Decides on the target beneficiaries, eligibility, and other policies of the project.</p> <p>Provides long-term financing to beneficiaries for lots and/or homes</p>
Local government	<p>Selects communities for tenure regularization.</p> <p>Sometimes acts as an “originator” of a CMP project by assisting in the organization of the community, and preparing and guiding it throughout the process of loan application and the servicing of the loan or its repayment.</p> <p>Sometimes provides basic services in the CMP site.</p> <p>Approves the development plan.</p>	<p>Convenes the inter-agency committee which oversees the disposition of the proclaimed land.</p> <p>By virtue of its oversight function, it can influence policies and decisions regarding the disposition of the proclaimed land.</p> <p>Sometimes provides basic services in the proclaimed sites.</p> <p>Approves the development plan.</p>	<p>As owner of the land, it grants the right of use to a “usufructuary” or user.</p> <p>Decides on the target beneficiaries, eligibility and other policies of the project.</p> <p>Provides long-term financing to beneficiaries for lots and/or homes.</p> <p>Approves the development plan.</p>
Department of Environment and Natural Resources (DENR)		<p>Recommends public land or idle government-owned land as disposable for socialized housing and for the issuance of a land proclamation.</p>	
Land Registration Authority (LRA)	<p>Certifies land registration; provides information regarding the status of the property.</p>	<p>Provides information regarding the status of the property.</p>	<p>Provides information regarding the status of the property.</p>
Housing and Land Use Regulatory Board (HLURB)		<p>Approves the subdivision plan.</p>	<p>Approves the subdivision plan.</p>

TABLE 7. *continued*

Institutional actor	CMP	Presidential Proclamation	Usufruct
Community Association	<p>Organizes community members who want to avail of a CMP loan.</p> <p>Negotiates with landowner for the purchase of land.</p> <p>Complies with loan requirements.</p> <p>Collects loan payments from the members and remits to the lending agency.</p>	<p>Represents the community in the inter-agency committee, dialogues and negotiations with the government.</p> <p>Prepares a “community development plan” which it presents to government for adoption into the project</p> <p>Conducts activities in support of the community development plan (e.g. household surveys, community assemblies, etc.).</p>	<p>Represents the end-users or beneficiaries of the land.</p> <p>Assists in estate management.</p> <p>Implements the policies of the project and enforces its rules and regulations.</p>
NGOs	<p>Acts as an “originator” of a CMP project by assisting in the organization of the community and preparing and guiding it throughout the process of loan application and repayment.</p>	<p>Provides technical assistance to the community association in the preparation of a people’s plan.</p> <p>Assists in organizing the community association.</p> <p>Sometimes provides housing to the poorest families.</p>	<p>Acts as “usufructuary” and develop the land and/or builds low-priced housing on land owned either by a private donor or the government.</p> <p>Provides financing.</p>
Private sector	<p>Private landowner sells land to the association and is paid by the lending institution.</p>	<p>Private landowner sells land to the government for disposition to urban poor occupants.</p>	<p>Private landowner provides land for use by an NGO and ultimately by poor families.</p>
International Development Agencies (e.g. UN-HABITAT, World Bank, Cities Alliance)	<p>Provides technical assistance for city-wide shelter and land use planning which can identify CMP sites.</p> <p>Provides grants for slum upgrading in partnership with local governments and/or NGOs.</p>	<p>Provides technical assistance for city-wide shelter and land use planning which can identify sites for land proclamation and target communities.</p> <p>Provides grants for slum upgrading in partnership with local governments and/or NGOs.</p>	<p>Provides technical assistance for city-wide shelter and land use planning which can identify possible sites for usufruct.</p> <p>Provides grants for slum upgrading in partnership with local governments and/or NGOs.</p>

9.2.4 Existing legal frameworks

They provide openings for alternative secure tenure approaches. Innovations and significant impacts in the provision of legal tenure to informal settlers have been possible even without new laws or new mandates from central governments. Existing legal systems and laws have been exploited to support innovative approaches. Innovations, in turn, lead to new institutionalised practices and legislation that can further support the large scale application of alternative tenure approaches.

9.2.5 Community organization and participation

The provision of secure tenure is greatly facilitated by the organization and participation of the informal settlers themselves throughout the process of legalizing their tenure. Community organizations perform many that are vital to activities that typically form part of the process of tenure regularization. They facilitate consensus building and negotiation, thereby ensuring that community members speak in one voice when talking to concerned authorities. They enable community members, especially women, to participate in all the processes involved in resolving tenure issues. They

BOX 9.1: IMPLICATIONS OF THE NEW FREE PATENT LAW

RA 10023, signed into law on 9 March 2010, amends the Public Land Act by reducing the eligibility requirement for titling from 30 to 10 years of actual occupation. The law covers lands zoned as residential areas, including town sites and military reservations. By virtue of this law, any actual occupant can apply for a free patent up to 200 square meters in highly urbanized cities, up to 500 square meters in other cities, up to 750 in first and second class municipalities, and up to 1,000 square meters in all other municipalities. Critical to the grant of a free patent is fulfilling the requirement of the land being zoned as residential. The zoning authority is lodged with the local government.

The new Free Patent Law would make it easier for long-time occupants of untitled or public lands, classified as residential, to acquire a legal title. The objective of the law is to make land titling and registration easier, thereby increasing the present coverage of titled and registered lands in the country. It is estimated that as many as 39 million Filipinos living on unregistered lands will benefit from the increased ease in getting a formal title. Occupants of alienable land classified as residential can now apply for a free patent with the DENR, effectively doing away with the lengthier process of titling through the courts. If implemented well, the new law would make it easier for residents of informally settled land in urban and rural areas, to acquire legal tenure. The cost of land acquisition would be reduced significantly compared to applying for title through the courts, which used to be the normal course. Aside from reducing the cost, the administrative process is also simplified, which would encourage long-time informal occupants to formalize their tenure.

Applications for a free patent are filed with the Community Environment and Natural Resources Office of the DENR which has jurisdiction over the subject parcel of land. The Community Environment and Natural Resources Office then make its recommendation to the Provincial Environment and Natural Resources Office, which should decide on the application within five days of receipt of the recommendation.

The requirements for a free patent application include: 1) a copy of the approved plan based on the actual survey conducted by a licensed geodetic engineer or a copy of the cadastral map showing the subject land parcel, 2) a copy of the technical description of the subject land parcel, 3) a sketch of the land parcel showing the adjacent lots, and the natural and manmade features defining its boundaries, and 4) an affidavit of two disinterested persons attesting to the applicant's continuous residence or occupation of the land parcel for 10 years.

make sure that the needs and interests of all in the community, including the vulnerable households and members, are given the appropriate attention and interventions. They assist in the collection of payments associated with tenure acquisition and are also often able to access additional resources for community improvement. Most importantly, they help ensure that community members have a say in important decisions, that these decisions are accepted and followed by the majority if not by everyone in the community, and that everyone more or less benefits from them.

9.2.6 Sources of financing for housing and tenure

While it is widely believed that providing secure tenure huge amounts of resources, especially if private lands are to be acquired, a variety of housing finance sources does exist which, if organized properly, can provide significant resources for providing tenure. A combination of public and private sources, including community savings, works best because government budgets are usually limited. Several different housing finance sources are available, which provide opportunities for forging institutionalized partnerships between the public and the private sectors?

Easy access to sufficient housing finance is important so that government agencies and local governments that want to embark on secure tenure programmes can pay for activities such as land acquisition, survey works and site development, and other forms of assistance provided to the urban poor. The urban poor also need access to housing finance so that they can pay for land acquisition (in the case of ownership-based approaches), site development (if not subsidized by government) or house improvement.

“*Many stakeholders find it in their interest to support the granting of legal tenure to informal settlements.*”

9.2.7 Public-private-partnerships

Many stakeholders find it in their interest to support the granting of legal tenure to informal settlements. Private organizations like NGOs, MFIs, charitable and religious organizations, private foundations and even business corporations all engage in cooperative undertakings with government agencies, for the provision of social services, including land tenure and housing, for poor families. They also bring into these partnerships valuable knowledge and technologies (e.g., building technologies, business systems) that can improve the efficiency and sustainability of innovative land tenure and housing schemes. NGOs provide valuable expertise in community organizing and capacity building to communities for managing tenure and housing projects, among them CMP projects. Some private organizations and NGOs, such as the HFHP in Taguig City, can even provide financing for house construction. MFIs provide livelihood support which is essential to strengthening the poor families' capacity to pay for services and tenure-related fees.

9.2.8 National-local coordination increases efficiency

Local governments that are able to tap into national government programmes can increase the scope of tenure and housing services they are able to provide to their citizens. This was shown by the example of Las Piñas City. Conversely, national government programmes can be implemented more widely with the cooperation of local governments.

BOX 9.2: ROLES OF COMMUNITY ASSOCIATIONS

Community organizations help make poor communities become real stakeholders in development processes, including the regularization of tenure of informal settlements. They do this through the many roles they perform.

Consensus building and negotiation. Local authorities and government agencies find it easier to implement tenure regularization programmes in settlements with functioning community associations. Community organizations perform many useful functions for facilitating the acquisition of legal tenure. One of them is building consensus within the community so that it can negotiate the terms of the land acquisition process. Issues like qualifying beneficiaries, the treatment of various categories of residents (e.g., renters, structure owners, extended families) can be resolved with the facilitation or mediation of community associations. In some land regularization projects, re-blocking or the adjustment of house plots is sometimes necessary, and consensus is needed to decide on permissible lot sizes and allocations. The community association often takes the role of convincing affected member households to submit to re-blocking or to lot size limits.

Ensuring the continuing participation of the community. After a land tenure programme has been initiated, there remain many steps in the tenure acquisition process that would require the collective action of community members. For instance, agreement with the government on a site development plan, policies on beneficiary qualifications, and repayment schemes are issues that are best decided with the participation of the community. Community organizations channel the participation of community members in these decisions in an orderly and sustained manner. They also help ensure compliance with agreements made with government authorities.

Protection of vulnerable members. Government agencies implementing tenure regularization can reach out to vulnerable community members with the help of community associations. Community associations play a role in safeguarding the interests and special needs of vulnerable members of the community. They sometimes have to intervene so that these needs are not overlooked when policies and rules are formulated. Families with special needs, such as those with elderly members or members with disability, can seek representation of their needs through community organizations.

Participation of women. It was observed that women are often more active than men in running and leading community associations, partly because shelter concerns are culturally considered to be within the domain of women. Men are often also out of the community to earn a living, while women typically work within the community or at home. Community organizations provide an effective venue for women to participate in community deliberations and decision-making. Participation in a land acquisition or secure tenure process equips women leaders with valuable skills in negotiation, forging and enforcing compliance to contracts, filling out loan documents, understanding subdivision plans, and practicing simple accounting and other skills for maintaining a community organization.

BOX 9:2 continued

Collection of payment. In many non-conventional tenure regularization processes, community associations are relied upon to assist in, if not to take charge of, payment collection. Some collection schemes allow community associations to retain a small percentage of collections to support the operating expenses of the associations. Government agencies can tap community organizations to assist in payment collection since many of them have the capacity to go to the level of the households to collect payment. In some cases, community associations even come up with schemes for assisting defaulting members.

Accessing additional resources. Organized communities are better able to access additional resources from external entities like civic organizations to meet various community needs such as additional community infrastructure (e.g., day care facilities, multi-purpose halls).

This was the reason for the localization strategy recently initiated by the CMP. Local governments play an important role in tenure regularization programmes for many reasons. First, such programmes necessarily have to be harmonized with land use, city development, and shelter plans which are formulated by the city government. Secondly, local governments represent the entire government and are directly accountable to communities for all public programmes implemented in their jurisdiction. In implementing land and housing programmes, the local government would often need the assistance of national government agencies, which by their nature have specialized mandates and perform sector-specific activities. Because they serve as the point of convergence for the delivery of government-provided services to communities, local government capacity for coordination with national government entities is essential for expanding the reach of social services and ensuring good targeting of these services.⁵²

9.2.9 Land management capacity which must be linked to tenure provision

City governments that make a conscious effort to rationally manage land within their jurisdiction are able to find and allocate land to provide secure tenure for the poor. In the Philippines, a number of initiatives supported by multilateral and bilateral development agencies (e.g., City Development Strategy, Cities Alliance, Canadian International Development Agency, AusAid) have been directed at enabling local governments to formulate city-wide land use and shelter plans. These initiatives have underscored the need for rational land management to influence land uses that meet social and economic development objectives. The offering of land management courses in universities aimed at developing stakeholders' capacities and professionalizing land management is an example of a capacity building initiative that supports this strategy.⁵³ In the process, local governments have gradually developed an appreciation for land management as a

⁵² A successful example of national-local coordination is the social housing programme of Las Piñas City (see Chapter 6), which illustrates how a national housing programme can be used by a local government for undertaking the city-wide tenure regularization of informal settlements.

⁵³ This is currently being done in the Philippines through the Ausaid-World Bank-supported Land Administration and Management Programme (LAMP).

BOX 9.3: INSTITUTIONALIZING PUBLIC-PRIVATE PARTNERSHIPS

Alternative approaches such as the Community Mortgage Program and the Taguig City Social Housing programme are built on institutionalized partnerships between government entities and NGOs.

One distinct feature of the Community Mortgage Program is the mobilization of project “originators”, which can be non-government organizations, local governments, or public shelter agencies such as the National Housing Authority. The majority of CMP originators are NGOs. The originator assists in organizing the community and in the evaluation of the eligibility of each member-beneficiary. It also assists the homeowners’ association in complying with the documentary requirements of the programme. In addition, the originator helps the community in setting up an effective collection system and oversees the collection of payments from the association members. Part of the originator’s work is to inculcate the values of discipline, solidarity, and trustworthiness among the community members. A majority of originators are NGOs. As of 2009, there were more than 200 accredited NGO originators of CMP projects.

The Taguig City government entered into a partnership with an NGO, the Habitat for Humanity Philippines (HFHP), for the construction of medium-rise residential buildings for low-income families. HFHP employed an innovative building technology, interlocking blocks, to bring down the cost of construction. It also offered medium-term financing to the beneficiaries. HFHP had its own system of costing the beneficiaries’ sweat equity, which helped reduce construction costs. Through its partnership with HFHP, the Taguig City government was able to harness the NGO’s management and construction technologies in several low-income housing projects. These projects were under a usufruct arrangement on land owned by the city.

development tool and for making land use decisions to further land policy objectives. The Taguig City government in Metro Manila took a deliberate decision to make land it owned available for housing informal settlers under the usufruct arrangement. It did this with a view to preserving ownership and control of its land, to be able to address future housing needs.

9.3 WHAT ARE THE CONSTRAINTS?**9.3.1 Lack of an integrated land policy and coordinated implementing institutions**

The provision of secure tenure to the urban poor depends largely on how much access the poor communities have to land. Existing land policies tend to restrict the access of the poor to land because they appear too complicated. In addition, efforts to acquire formal tenure necessitate dealing with so many institutions. Government agencies, including local governments, sometimes also find it hard to implement their mandates on land management, land use, and shelter provision because of the many laws and policies directing them to do different things. Institutional reforms to streamline the agencies responsible for land registration and providing tenure would help to make formal tenure more accessible to people. They would likewise empower local authorities to provide tenure.

9.3.2 Integrating secure tenure provision in city development plans

Many initiatives for providing secure tenure to informal settlers are implemented as distinct projects, often planned and carried out independently of other development programmes in the same locality. Upscaling tenure regularization programmes will be greatly facilitated if these are linked with city development plans and strategies. Integrating secure tenure programmes in city development plans will also facilitate the provision of complementary services to the target communities, including infrastructure and basic services. Because local governments are responsible for formulating and implementing city development plans, it is important that they adopt a city-wide perspective and strategy when embarking on a tenure regularization programme for informal settlements within their jurisdiction.

9.3.3 Funding

Ensuring continuous and adequate funding for necessary activities to facilitate tenure regularization, such as the conduct of survey works, is indispensable for the implementation of secure tenure approaches on a wide scale. Approaches that depend on government's acquiring private lands would require substantial financial resources. It is thus necessary that funding requirements for land acquisition and other necessary activities related to tenure acquisition are systematically incorporated in the budgets of local and national agencies. Experiences with land acquisition and social housing programmes have shown that financial sustainability cannot be assured by relying on collections from the beneficiaries. But as national and local government budgets are constrained by existing revenue generating capacities, and by competing social and development priorities of the state, housing budgets are likely to remain severely limited.

9.3.4 Harmonizing tenure instruments with land registration system

The security which alternative forms of tenure provide can be enhanced when the tenure instruments are harmonized with and included in the land registration system or any government-supported land records system. In many countries, the land registration system records only ownership rights to land. There is no system for registering other land use rights such as leases and usufruct rights. A system of registering these use-based rights could give rights-based instruments a firmer legal status, and thereby enhance their holder's sense of security.

9.4 CONTINUING CHALLENGES

Addressing these constraints should form part of the strategy for institutionalizing secure tenure approaches. The measures that policymakers and local governments will take to address the above constraints will nevertheless have to deal with social, economic, and political realities.

9.4.1 Declining supply of land and rising land prices

Most lands in the bigger urban centers in the Philippines are privately owned. There are few remaining parcels of land that are untitled or considered public land, and a few that are owned by government entities. Most of the remaining idle or unused lands are privately owned and cannot be easily accessed for social uses like low-income housing. Growing densities have also pushed land prices upwards. Land for commercial and other public uses must also be provided for economic development, which is necessary to supplying jobs.

Recent disasters such as the floods of September 2009 which rendered many areas uninhabitable will further shrink available land for housing in cities. If local governments and regulatory institutions will strictly enforce compliance to rules such as requiring certification from the Mines and Geosciences Bureau for approving subdivision plans, more lands will be rendered legally inaccessible.

Given competing legitimate uses for limited land, one challenge is for government to preserve its control over land to ensure its use for the benefit of the greatest number of people. In many countries, land use decisions are driven by market forces over which government has little effective control.

9.4.2 High population growth in cities, increasing densities in informal settlements

Densities in informal settlements are also increasing. In the Philippines, poorer households tend to have bigger family sizes even in the urban areas. Increasing densities, combined with the declining supply of land, call for housing solutions that would enable government to meet the housing needs of the greatest possible number of people, given the limited space over the long term. In light of these trends, approaches that are built around individual land ownership would be less than ideal. Land consolidation would be more beneficial compared to cutting up land in small parcels, because larger land parcels increase the number of possible uses of the land.

9.4.3 Laws on easements and danger zones

Many urban poor households live along the easements of rivers and bodies of water which existing laws declare uninhabitable. If governments were to implement these laws strictly, the relocation requirements would be enormous. In the Philippines, some communities have conducted their own mapping and assessment of risks and hazards, with the help of science-based tools. They have used these maps to negotiate with local authorities on what would be reasonable sizes of easements. The wide use of such community-based mapping and hazard assessment tools can inform policy- and law-making by national and local legislative bodies.

9.4.4 Leveraging resources on a large scale and tapping funds from the private sector

Implementing a tenure regularization programme on a large scale and on a sustained basis will entail large amounts and a steady flow of funds. Bringing together funds from different sources is therefore crucial. While a variety of sources of financing can be tapped, including community savings, bringing them together on a large scale can be quite challenging. There are known examples of leveraging schemes, but these are mostly local or project-based. We lack models on how to access a significant amount of resources from capital markets and formal financial institutions, which have the biggest pool of funds that can be used for tenure regularization programmes. The traditional model of local governments or government agencies borrowing from formal financial institutions is not easily replicable nor appealing because of the high interest rates usually charged for these development loans. New models of leveraging and tapping into large private sources of funds are needed.

9.4.5 Sustaining subsidies for secure tenure

Most urban poor communities, especially those that have been informally settled for a long time, are mixed in terms of the socio-economic standing of their residents. In tenure regularization projects that require the payment of land costs, some of the poorest members may find it difficult to make regular payments and may end up being displaced. If the community organizing had been done well, payments would have been set to suit the actual paying capacity of the members. This could have been done by adjusting the lot size or extending the term of the loan. Still, with rising land prices, poor communities may increasingly find it hard to find affordable land they can purchase. Most poor families are unable to afford the double or triple burden of paying for land, site development, and housing, making subsidies inevitable. In proclaimed areas, land costs, as well as the cost of site development, could be subsidized. Nevertheless, the government incurs an expense in providing these subsidies such that sustaining these subsidies would be a challenge. An additional challenge is designing subsidies that would reach and be most appropriate to the very poor.

“*Complicated land registration processes discourage the formalization of tenure and make land markets vulnerable to deceptive land claims.*”

9.5 OVERCOMING LEGAL BARRIERS TO LAND ACCESS

9.5.1 Increasing the flexibility and transparency of land records

The Philippines has a complicated system of land registration. This had resulted in restricting the scope of land that can be accessed legally for various purposes and hampering the implementation of pro-poor land reform programmes. Complicated land registration processes discourage the formalization of tenure and make land markets vulnerable to deceptive land claims or squatting syndicates that thrive because of the difficulty of verifying the genuineness of titles. Making land registration records and processes more accessible and transparent provides people with accurate and credible information to enable them to make informed decisions on the legal means available to them for acquiring tenure. Allowing intermediate instruments to be registered, providing easier access to land information to

enable the poor to identify suitable lands, and facilitating access to reliable land information for pro-poor land tenure programmes would go a long way towards increasing poor people's access to secure tenure.

9.6 OVERCOMING INSTITUTIONAL AND GOVERNANCE BARRIERS

9.6.1 Streamlining complex and multiple arrangements for land registration

Aside from the codification of existing laws and regulations concerning land registration, streamlining the complex land registration arrangements and processes is also needed. This would reduce transaction costs, make information more readily available, and increase the overall efficiency in delivering formal tenure.

9.6.2 Improving coordination of tenure and housing interventions

Institutional reforms are also needed to improve the coordination of tenure and housing interventions. In the Philippines, the creation of a Department of Housing and Urban Development has been proposed to effect better coordination of tenure and housing programmes under a single leadership, and to reduce overlapping mandates across the various housing agencies. Better coordination between national housing agencies and local governments must also be attempted through localization strategies (e.g., a localized CMP) that empower local governments by increasing their role, capacities, and resources for undertaking tenure and housing interventions.

9.6.3 Ensuring continuity across local government administrations

Effective land management requires the consistent implementation of land policies and land use decisions. Thus, it is important that land use and shelter plans developed by local governments are adopted by their legislative bodies so that they can remain in effect beyond the current administration. Investment in land banking and slum upgrading provide long-term benefits. Approaches that are able to provide secure tenure within a short time, even if they use only intermediate tenure instruments, would be more attractive to local government administrators.

9.6.4 Enhancing local government capacity for land management

The authority of the state and local governments plays a crucial role in bringing about rational land uses that benefit the greatest number of citizens. Among the capacities that local governments need to possess to effectively and sustainably respond to the growing need for secure tenure among the poor is the capacity to undertake land management. Meeting present needs is one thing; planning and providing for future needs is another. The latter requires a sustained commitment on the part of local authorities to preserve

the state's control over land and to use it for purposes that would redound to the widest benefit. Land consolidation is a strategy which national and local governments can pursue. Encouraging measures in this direction, among them land banking, the adoption of lease and usufruct arrangements, and avoiding the outright disposition of government lands appears consistent with this strategy.

9.7 OPPORTUNITIES FOR FINANCING SECURE TENURE

Given the magnitude of poor people without secure tenure, public resources alone cannot adequately meet the demand for secure land and housing. A variety of sources of funds exists, which local governments can tap to finance land acquisition and tenure regularization programmes.

9.7.1 Government-provided housing finance

The provision of secure tenure can be financed by government using public funds. Examples are the Philippines' Community Mortgage Program and Thailand's CODI loans to communities, which are both funded through budgetary appropriation. But government can also use private funds such as government-managed provident or pension funds which are owned by their members. Government banks may also provide financing through housing loans to individual or community borrowers. In the Philippines, government banks and provident fund institutions offer loans for housing and land acquisition at market rates. Subsidized loans are provided by special lending institutions managing funds sourced from public sources. An example of this would be the CMP. Government institutions that want to offer housing finance need not be limited to public fund sources. But because the ability to provide subsidies is restricted to public funds, managing the mix of public and private funds to ensure financial sustainability would be a critical challenge for government housing finance institutions accessing private funds for the provision of secure tenure.

9.7.2 Community savings

The formation of savings groups to respond to shelter and land tenure issues is a strategy being promoted and practiced by a growing number of NGOs and urban poor federations in many countries. Community savings have been used to leverage government resources, as have grants from development aid agencies. Community savings can augment government resources in financing land acquisition and site development. But equally important is for savings groups to instill a culture and behavior of saving and managing community funds, as this can help sustain many community endeavors essential to achieving secure tenure. An example of one such effort to mobilize and institutionalize savings from poor communities is that of the Homeless People's Federation of the Philippines. As of 2009, this network of urban poor organizations promoting savings among low-income communities had 85,000 members with a combined savings of Php59.8 million (US\$1.3 million). The network has set up an Urban Poor Development Fund, to which poor people's savings groups contribute and which, in turn, lends to poor communities for their housing, tenure, and infrastructure needs.

9.7.3 Housing microfinance

Microfinance is a popular and fast-growing strategy for helping poor families improve their incomes and standards of living. While originally intended to respond to livelihood issues, its scope has extended to the provision of housing and secure tenure. In the Philippines, the practice of housing microfinance is still limited, but the strategy is catching on because of the demand from low-income households. More banks are becoming open to developing microfinance products catering to low-income borrowers. Microfinance institutions can tap bigger banks for funds for housing microfinance.

However, to make housing microfinance an effective tool for providing secure tenure to the poor, MFIs will need to be more flexible with their lending policies and practices. As long as MFIs continue to apply the same policies for livelihood or enterprise loans (i.e. interest rates, loan periods, graduated amount based on performance, etc.) to loans for housing, access will remain difficult. For MFIs to be relevant as supporters to the socialized housing sector, they need to introduce some modifications, such as allowing slightly bigger amounts (e.g. US\$1,200 for a core house, instead of US\$40 normally given for a livelihood loan); loan periods of at least 7-10 years compared to 6 months -1 year; approval of full amount of US\$1,200 versus graduated amounts. MFIs with more limited capacity to provide bigger initial loan amounts may start with house upgrading (i.e. concrete flooring, window repair, toilet construction) which can be done with small loan amounts.⁵⁴

9.7.4 Cooperatives

Housing cooperatives have resources which can finance land acquisition for secure tenure or housing arrangements that employ usufruct. In the Philippines, some of the bigger federations of cooperatives are beginning to develop and promote housing cooperatives and housing microfinance among their members. An example is the National Savings and Home Cooperative based in Cebu City. An affiliate of NATCCO, it provides housing to homeless members, particularly those with disabilities and special needs.⁵⁵ Some cooperatives provide housing loans to their members. These loans are re-financed by the government housing finance institution, Pag-ibig. Such a scheme expands the number of beneficiaries that can be given housing loans. If government can provide a guarantee facility to loans made by cooperatives for communities that want to engage in cooperative housing or land acquisition, for instance, the pool of resources available for providing secure tenure to the poor can be expanded.

⁵⁴ From comments to the draft of this paper provided by Ms. Eden Garde of UN-HABITAT, Philippine Office

⁵⁵ <http://www.mycoop.ph>.

10. PROSPECTS AND CHALLENGES OF INSTITUTIONALIZATION

Achieving scale in the provision of secure tenure depends on the existence of a sound institutional framework. Institutionalization achieves scale because the replication of a secure tenure approach is facilitated by the existence of accountable, implementing institutions, assured resources, and well-defined systems and procedures. Scaling up would require strengthening processes that have worked, and addressing the gaps and weaknesses in implementing some approaches. The foregoing chapter outlined some elements that resulted in the successful implementation of secure tenure approaches. These elements appear in Box 12.

The following section outlines some ways to address these constraints, in an effort to pave the way for scaling-up and institutionalizing alternative tenure approaches.

10.1 INTEGRATE AND CODIFY STEPS FOR SECURING TENURE IN EXISTING LAWS.

Because developing a pro-poor land policy takes time, designing schemes for providing secure tenure to the poor should start with what already exists. The set of land-related laws at hand should be studied and assessed in terms of how they can be utilized for the provision of secure tenure. The process of institutionalizing an alternative approach begins with using existing legal instruments that provide the poor with some access to land rights. The legal processes and steps for acquiring tenure should be integrated and codified to provide easy and accessible reference and guidance to all stakeholders, especially the poor. What would be useful is a “Code for

BOX 10.1: ELEMENTS OF A SUCCESSFUL TENURE APPROACH

1. The use of tenure instruments that can immediately provide security through a short and simple process;
2. The use of tenure forms not based on private ownership of land, such as usufruct;
3. Existing institutional arrangements supportive of secure tenure;
4. The use of existing laws;
5. Community organization and participation;
6. Partnerships involving private organizations, NGOs, and local authorities;
7. Access to housing finance that combines public and private sources;
8. Coordination between national and local governments; and
9. Stronger capacity for land management.

BOX 10.2: CONSTRAINTS TO PROVIDING SECURE TENURE

1. The lack of integrated land policy and coordinated implementing institutions;
2. Secure tenure provisions not integrated in city development processes;
3. Lack of large-scale leveraging of resources for tenure regularization; and
4. The non-inclusion of rights-based forms of tenure in land registration systems.

securing land rights” that provides information on different options for securing tenure, clear instructions on the steps to be followed under each option, a list of the institutions responsible for the different steps in the process, a simplified set of documentary requirements for fulfilling legal requirements, and information on sources of and mechanisms for accessing financial resources for secure tenure initiatives.

The codification of existing laws should be able to do the following:

- 1) Establish a set of land rights which the poor people can acquire;
- 2) Establish the mechanisms for enforcing these land rights, including the manner by which they can be incorporated in existing national land registration systems;
- 3) Define the ways by which these land rights may be acquired;
- 4) Identify the types of land that will be made available for the application of these land rights and how these lands can be made available; and
- 5) Identify the institutions which will implement and enforce the procedures for acquiring land rights.

10.2 DEVELOP INTERMEDIATE TENURE INSTRUMENTS AND SCHEMES FOR SECURE TENURE ACQUISITION

Secure tenure instruments, including intermediate ones that can be readily given with minimum requirements, should be developed based on land rights established in existing laws. The institutionalization of other secure tenure instruments such as certificates of occupancy rights, community lease agreements, land trust agreements, to name a few, could be explored. In addition, the schemes for acquiring these land rights will need to be spelled out in terms of specific procedures, eligibility qualifications, contracts, and other necessary forms and documents.

10.3 SET UP INSTITUTIONAL ARRANGEMENTS THAT STREAMLINE PROCEDURES FOR ACQUIRING FORMAL TENURE

There are two ways of institutionalizing a secure tenure approach. One way is to set up a programme and mandate a specific agency to implement the programme. Another approach is to rely on multiple implementers that would use a uniform set of “tools” which could be a set of tenure instruments (e.g., a certificate of occupancy, a certificate of lot award), housing finance schemes (e.g., a community mortgage implemented by a number of finance institutions, including MFIs), documents and contracts (e.g., memoranda of agreement, usufruct contracts). A capacity development programme

BOX 10.3: INSTITUTIONALIZING SECURE TENURE VIA PRESIDENTIAL LAND PROCLAMATIONS

The following are possible measures for institutionalizing or strengthening the use of presidential land proclamations as a secure tenure approach.

Establishing a land proclamation programme. An agency with the most experience in administering and distributing land rights will be designated to implement it and assured funding would have to be provided. The programme would also specify the modes of disposition such as grant of ownership, usufruct, or lease, and the different processes to be observed under each mode of disposition. The establishment of such a programme can be done through an executive order, but legislation would provide a stronger legal basis and political support.

Pricing of land. While there is a set of guidelines for the valuation of lands subject to a proclamation, the challenge lies in how to make the price affordable to the beneficiaries. Setting the rules for the provision of subsidy, defining how much the subsidy should be, and identifying the source of subsidy will be necessary when institutionalization is pursued.

Complete legal and technical research. Before a site is proclaimed, technical and legal issues pertinent to the disposition of the land such as legal ownership of the land, compliance with zoning laws, the land's suitability for housing, etc. should be sorted out to prevent delays in land disposition.

Environmental assessment. Part of the research that should precede the issuance of a proclamation is the conduct of an environmental assessment to ascertain the habitability or suitability of the land for residential use. This is particularly important because many areas occupied by the urban poor are marginal lands or lands with known hazards. An environmental assessment and soil analysis to check the types of structures that can be built should form part of the pre-proclamation research.

Intermediate rights-based instruments. The legal status of intermediate tenure instruments such as the certificate of lot award, contract to sell, occupancy permit or lease agreement, should be defined, ideally through legislation, to firmly establish the legal right of the holders of these instruments and protect them from eviction or from being disqualified as beneficiaries of a proclamation. These instruments must be recognized administratively and by the courts. Moreover, various modes of disposition of the proclaimed lands, including individual and community leases, rental and usufruct, should be explored.

Alternative institutional arrangements. Institutionalization would imply prescribing a set of institutional arrangements, with clearly established accountabilities. The roles and responsibilities of local governments vis-à-vis central government shelter agencies will have to be clearly defined.

LGUs to subsidize site development. Local governments are mandated and have the wherewithal to provide basic infrastructure like roads and drainage in public areas. This mandate could cover the provision of serviced land in the proclaimed areas, which would include the availability of water, sanitation and other basic infrastructure. The provision of basic services by local government would ensure the habitability and compliance to standards of these settlements.

Government partnerships with NGO and private sectors. The success of keeping the cost of housing to a minimum rests on government's ability to tap resources offered by NGOs and the private sector. Government subsidy alone will not be enough to make housing affordable to the poor. Institutionalization would thus need the contribution of NGOs and the private sector in housing programmes that employ alternative forms of tenure.

Empowering community organizations. Community organizing is very critical to enabling poor families to make decisions and feel that they have a stake in the acquisition of legal tenure. Moreover, community organizations help members fulfill their roles and obligations as holders of secure tenure instruments.

should be implemented to enable key implementing institutions to build their capacities in processes like proper targeting, the integration of secure tenure schemes in city-planning processes, and forging partnerships with private sector groups.

10.4 INTEGRATE SECURE TENURE APPROACHES IN CITY DEVELOPMENT

Local governments are major actors and stakeholders in institutionalized programmes for securing tenure. The designed institutional arrangements must by necessity define the role, authority and accountability of the local government in the implementation process. The institutional arrangements must also be able to support the development and implementation of a city-wide secure tenure programme for poor communities; and should connect this with city development and land management processes. Secure tenure programmes should be integrated in the preparation of city development plans, land use and shelter plans in order to synchronize the provision of infrastructure and services with the provision of secure tenure. It is best that clear mandates are given to local governments by the appropriate national authority for integrating secure tenure programmes in broader city processes. But even in the absence of a national mandate, local governments can and must ensure that this integration takes place.

10.5 CITY-WIDE LAND INVENTORIES AND ENUMERATIONS

The planning of city-development processes and secure tenure strategies for informal settlements would benefit greatly from information that can be collected through a systematic enumeration of households without secure tenure and through an inventory of available land. Methodologies for undertaking these processes based on actual experiences are available and can be adapted to local contexts.⁵⁶ The institutionalization of a secure tenure programme would also require the creation of an accessible database containing relevant land information.

10.6 DEVELOP FINANCING SCHEMES FOR TENURE REGULARIZATION

Financial resources must be provided to programme implementers, including local government, as well as to the end-users or recipients of the land rights. An inventory of the available sources of housing finance encompassing different types and sizes of funds, ranging from cooperatives and microfinance institutions to pension funds, private and government-owned banks and international development agencies, would be helpful. A range of housing finance schemes should be designed and made available to suit different economic situations of borrowers, be they local governments or poor families. If needed, ways of making tenure instruments acceptable to financial institutions as a form of guaranty or collateral should be devised for the purpose of increasing poor people's access to housing finance.

10.7 STRENGTHEN COMMUNITY ORGANIZATIONS

The better organized and knowledgeable communities are with regard to the procedures for acquiring land rights, the easier it will be for them to build consensus, make decisions and plans, mobilize resources, and undertake

⁵⁶ Examples of these methodologies can be obtained from the following GLTN publications: "Count me in: Surveying for tenure security and urban land management" (UN-HABITAT 2010) and "Land Inventory in Botswana: Processes and Lessons" (UN-HABITAT 2010).

the activities necessary for a secure tenure programme. They can become more effective partners of local governments and implementing agencies if they have sufficient knowledge of the laws and procedures involved in the programme being implemented. Capacity-building of community organizations should therefore form part of any institutionalized secure tenure programme.

10.8 SUMMARY AND CONCLUSIONS

This study of the experience of the Philippines in implementing three approaches for providing secure tenure has underscored the benefits of designing simple, intermediate tenure instruments for providing the urban poor with access to land rights. Among these benefits are the provision of secure tenure for the poor in locations preferred by and most advantageous to them, facilitating the provision of basic services to poor communities, making the provision of tenure affordable both to the beneficiaries and the government, and facilitating effective land management. The three approaches surveyed in this study – the Community Mortgage Program, presidential land proclamations and the usufruct arrangement – have been shown to deliver these benefits at different levels of scale.

Factors that have led to successful implementation of these approaches are:

- 1) Use of intermediate tenure instruments and non-ownership based forms of tenure;
- 2) Using existing institutional and legal frameworks in developing new schemes for expanding access to land rights;
- 3) Community organization and participation;
- 4) The availability of multiple sources of housing finance, including community savings, cooperatives, and housing microfinance;
- 5) The active role of local authorities,
- 6) Public-private partnerships and
- 7) Land management capacity.

Nevertheless there are continuing challenges to the implementation of innovative tenure approaches. Among these are the diminishing supply of land and rising land prices, high population growth and increasing densities in cities, the inaccessibility of large private sources of funds and laws that prohibit the use of land in certain locations for residential purposes.

Several options for achieving and institutionalizing alternative secure tenure approaches include:

- 1) Developing a land policy that would purposely increase the poor people's access to land rights;
- 2) Codifying processes for securing tenure contained in existing laws;
- 3) Developing intermediate instruments and propagating their use through well-funded programmes, simplified tools and processes;
- 4) Integrating secure tenure schemes in city development processes;
- 5) Conducting city-wide land inventory and enumeration of informal settlers;
- 6) Developing housing finance schemes from public and private sources; and
- 7) Strengthening community organizations.

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ANNEX 1. SAMPLE LEASE PURCHASE AGREEMENT

(THIS FORM IS NOT FOR SALE)

CM-F-06

LEASE/PURCHASE AGREEMENT

This AGREEMENT, made and entered into this ___ day of _____ 200__ at _____ Philippines, by and between:

A community association duly organized and existing under by virtue of the laws of the Republic of the Philippines and with office address at _____

herein represented by its President/Chairman: _____ hereinafter referred to as the LESSOR:
-and-

_____ of legal age, Filipino citizen, single/married to _____ and with address at _____ hereinafter referred to as the LESSEE:

WITNESSETH THAT

In consideration of the terms and conditions hereinafter set forth the LESSOR and the LESSEE agree as follows:

SECTION 1. LEASED PROPERTY (BLOCK NO. _____ LOT NO. _____)

- 1.1 The LESSOR hereby agrees to lease to the LESSEE and the LESSEE hereby agrees to LEASE from the LESSOR the "PROPERTY" consisting of _____ (_____) square meters described at the back hereof or per the attached plan. The LESSEE hereby acknowledges that he/she has identified and inspected property allotted to him/her and accepts the same. The term property includes all improvements which may be introduced thereon.

SECTION 2. TERM

- 2.1 The term of this Lease with respect to the PROPERTY shall commence on the Delivery and Acceptance Date shall continue for the period of _____ years.
- 2.2 Subject to the LESSOR's right of termination under Section 4 and other applicable provisions hereunder and the LESSEE's exercise of his/her right of option to purchase under Section 11 hereof, it being understood that the payment of the aggregate rental for the full period of this Lease is the very essence and special consideration of this Agreement.

SECTION 3. RENTAL

- 3.1 The LESSEE shall pay to the LESSOR, its ASSIGNOR or SUCCESSOR-IN-INTEREST without need of notice or demand, rental for the use and occupation of the property, in the amount of _____ PESOS (P _____) per month , to commence on the _____ and every month thereafter (the same date of succeeding months) until the termination of the lease or the exercise of the LESSEE's option to purchase as the set forth under SECTION 11 whichever comes first . The LESSOR, its assignor or successor-in-interest, reserves the right to adjust the rental due from the LESSEE and the LESSEE shall be liable to pay the same.
- 3.2 The obligation of the LESSEE to pay the rentals and other amounts due to hereunder, is absolute and unconditional and shall not be subject to any abatement whatsoever or to any defense set off, counterclaim or recoupment whatsoever, whether by reason of any damage to or loss or destruction of the PROPERTY or by reason of any interruption from whatsoever cause (other than

from the wrongful act of the LESSOR) in the use, operation or possession of the PROPERTY or for any other reason.

- 3.3 In the event of default by the LESSEE in the payment of rentals or any amount due hereunder, the LESSEE shall pay a penalty on such rentals or other amount in the arrears in the amount of 1/15 of 1% per day of delay.

SECTION 4. USE OF PROPERTY

The LESSEE, during the term of this Lease, shall have the possession of and the right to use, maintain and operate the PROPERTY exclusively for residential purposes and in accordance with the terms and conditions of this Agreement and in strict conformity with the laws, ordinances and regulations applicable thereto and shall not permit the PROPERTY to be used for unlawful purposes not permitted hereunder. If the LESSEE uses or allows the PROPERTY to be used for illegal purposes or for purposes not permitted, the LESSEE shall reimburse the LESSOR for any and all damages liabilities, losses, cost, or expenses which the LESSOR may sustain by reason or as a result of such misuse, including the payment of any kind of fines which may be imposed on the LESSEE. In addition to and notwithstanding its rights to reimbursement, the LESSOR may in such event cancel this lease.

SECTION 5. RISK OF LOSS OR DAMAGES

- 5.1 It is the principle of this Lease that the Title or ownership of the PROPERTY is retained by the LESSOR, the risk of loss or damage of the PROPERTY, is hereby transferred and assumed by the LESSEE and no such loss or damage shall impair the LESSEE's obligations under this Agreement.

SECTION 6. LESSOR'S INSPECTION

- 6.1 The LESSOR shall at any and all times during reasonable hours and in a convenient manner, have the right to enter into the premises where the PROPERTY is located and examine the manner of use of the PROPERTY provided, however, that the LESSOR hereby incurs no duty to make such inspection or examination nor liability for not making the same.
- 6.2 In case of the LESSEE's default as to any of the provision of this Agreement, the LESSEE hereby agrees to allow the LESSOR or its duly authorized representatives to enter the premises. LESSEE further agrees to vacate the premises voluntarily and in case of refusal to do so, LESSOR or its assignee can eject him/her summarily without need of judicial proceedings, and without incurring liability in respect thereto, whether civil or criminal.

SECTION 7. TITLE OF OWNERSHIP OF PROPERTY

- 7.1 The PROPERTY is, and shall at all times be and remain, the sole and exclusive property of the LESSOR and no title shall pass to the LESSEE by virtue of the Agreement subject to the provisions of Section 11 hereof.

SECTION 8. INSURANCE, TAXES, ASSESSMENTS

- 8.1 The LESSEE hereby authorizes the LESSOR or its assignee to obtain from accredited insurance companies for the LESSEE's account and for the benefit of the LESSOR, its assignee or successor-in-interest, a Lease/ Purchase Redemption Insurance covering the life of the LESSEE equivalent to the outstanding rentals/sales price payable for the acquisition of the lease title/ownership of the unit. This insurance shall be maintained for the full term of the Lease.
- 8.2 The premium shall be for the account of the LESSEE and shall be prepaid annually. The initial years premium shall be paid upon the execution of his contract thereafter pre-payment for the

following and succeeding years shall be distributed and collected together with the rental payment as for the current year.

- 8.3 Every insurance policy obtained in the connection with this contract is hereby assigned to the LESSOR or its ASSIGNEE/TRANSFEREE notwithstanding LESSEE's failure to endorse or deliver said policy. Accordingly, in case the risk insured against occurs, the LESSOR or its ASSIGNEE/TRANSFEREE is hereby authorized to apply to insurance proceeds to settle in whole or in part the LESSEE is herein obligations.
- 8.4 Taxes and other assessments. All taxes, levies assessment and other charges on the property shall be for the account of the LESSEE.
- 8.5 Upon failure of the LESSEE to pay the taxes, charges and assessments when due, the LESSOR on its assignee/transferee may advance the same and in such event, the legality and amount of the charges or assessments as well as surcharge thereon if any, shall unconditionally be within the discretion of the LESSOR or its assigned/transferee upon demand, with penalty of 1/15 of ONE PERCENT (1/15 of 1%) of the amount due per delay unit paid.

SECTION 9. ASSIGNMENT /SUB-LEASE

- 9.1 The LESSEE cannot sub-lease or assign his rights and interest over the PROPERTY without the prior written consent of the LESSOR or its assignee. Any violation of this provision shall entitle the LESSOR, its assignee to terminate the lease granted hereunder.

SECTION 10. EVENTS OF DEFAULT

10.1

- a. Failure of the LESSEE to pay the equivalent of at least three (3) consecutive monthly rentals.
- b. Misrepresentation or fraud committed by the LESSEE in securing the lease.
- c. Any representation, statement, warranty made by the LESSEE in this Agreement, or if any document executed by the LESSEE in connection with the lease shall prove to be true or incorrect in any materials respect;
- d. The LESSEE violates the policies, rules, regulation and guidelines of the LESSOR and /or its/his Assignee, or existing laws or ordinance of the locality on the occupancy and the use of the leased unit and other terms and conditions of this Lease Agreement
- e. The LESSEE shall become insolvent or unable to pay his debts as they mature, or take advantage of the insolvency, moratorium or other laws for the relief of the debtors, whether filed voluntarily or any judgment or order is entered by a Court of competent jurisdiction for the appointment of a receiver, trust, or the like to take charge of all or substantially all of the assets of the LESSEE.
- f. There shall have occurred a material change in the financial conditions of the LESSEE which, in the reasonable opinion of the LESSOR or its assignee, the LESSEE will be unable to perform his obligations under this agreement.
- g. The LESEE subdivides leases, sells, transfers, assigns, or otherwise disposes of the leased property without the prior written consent of the LESSOR or its assignee/transferee, or commits any act which may impair directly or indirectly the value of the leased unit.

- 10.2 Effect of Default. Upon default by the LESSEE, each of the following remedies shall accrues immediately to the LESSOR or its assignee in addition to any other remedies available to it under the law

- a. The LESSOR or its assignee may use the LESSE to recover any unpaid amounts payable hereunder.

- b. The lease shall be terminated and the LESSEE fails to do so, the LESSEE may be summarily ejected and the LESSOR/its ASSIGNEE may enter the premises where the property is located and take possession thereof without demand, notice, court order or process making such and re-possession, and agree to indemnify, exonerate, hold and save harmless the LESSOR from and against all claims for damages arising out, resulting from attributed to or in connection such entry and re-possession.
- c. The LESSOR/ITS ASSIGNEE may retain all amounts paid to it hereunder not as penalty, but as liquidated damages for rent, use and depreciation of PROPERTY.
- d. After reprocessing the property, the LESSOR/ITS ASSIGNEE may sell or release the PROPERTY , whether at public auction or otherwise, to any third person in such manner and upon such terms and conditions as the LESSOR or its ASSIGNEE deems in the best interest of the parties, provided however that the LESSEE may cure, its default at any time prior the sales or release of the PROPERTY by tendering upon the LESSOR or its ASSIGNEE the total of all amounts due and to fall due hereunder, plus all expenses incurred by the LESSOR or its ASSIGNEE in connection with the repossession and proceedings for sale or release of the PROPERTY including legal costs and fees.

SECTION 11. SPECIAL CONDITIONS

It is hereby agreed by the parties that all rental payments shall be considered as installment payment of the purchase price of the unit awarded to the LESSEE. Upon expiration of the Lease term and payment by the LESSEE of all rentals due and payable including penalties and surcharges, full title and ownership shall vest unto the LESSEE. The LESSOR or its ASSIGNEE shall execute the necessary Deed of Absolute Sale and all rental payments shall be credited against the purchase price.

However, upon payment by the LESSEE of the first twenty-four monthly rentals, the LESSEE can acquire full and absolute ownership and title over his unit provided individual certification of title can be transferred ; and provided further that the LESSEE shall assume the mortgage obligation over his lot executed by the Community Association in favor of SOCIAL HOUSING FINANCE CORPORATION (SHFC), or its ASSIGNEE and amortize the balance of the purchase price in accordance with the terms of a Promissory Note which shall be executed by the LESSEE in favor of the LESSOR or its ASSIGNEE.

The rental payment to be made shall be credited against the purchase price whereby the monthly payment shall be applied to penalties/surcharges for late payment of the rental due each month, insurance premium, if not separately billed, interest at the rate of 6% per annum (or any adjusted interest rate), based on the declining balance of the principal, and the principal representing the purchase price of the lot awarded to each beneficiary.

It is understood that the initial award of lot may not be with the specific technical description in accordance with the approved subdivision plan for the entire project. If according to the approved subdivision plan, there is a need to relocate or realign the LESSEE's housing unit or any portion thereof to conform to the plan, the LESSEE hereby authorizes the COMMUNITY ASSOCIATION to do it for him and his behalf also at his own expense without incurring any liability or damage for the acts done.

Further, should there be any adjustment of the area allocated to the LESSEE in lease, he agrees to the upward or downward adjustment of the rental due provided in Section 3 of this agreement, corresponding to the increase or decrease in lot area awarded to him.

The foregoing shall not in any way affect the lease granted by the LESSOR to the LESSEE under the terms and conditions above set forth.

IN WITNESS WHEREOF, we have hereunto set our hands this ____ day of ____ at _____ Philippines.

With my marital consent;

SIGNATURE OVER PRINTED NAME
(LESSOR)

SIGNATURE OVER PRINTED NAME
(LESSEE)

SIGNATURE OVER PRINTED NAME
(SPOUSE)

SIGNED IN THE PRESENCE OF:

Witness

Witness

ACKNOWLEDGEMENT

Republic of the Philippines)
_____) S.S.

BEFORE ME, a Notary Public for and in _____ this _____ day of _____ personally appeared the following with their respective Community Tax Certificate (CTC) as follows:

NAME	CTC Number	DATE OF ISSUE	PLACE OF ISSUE
_____	_____	_____	_____
_____	_____	_____	_____

Known to me and to me known to be the same persons who executed the foregoing Lease/Purchase Agreement and acknowledge to me that the same their own free and voluntary act and deed and that of the corporation which they represent.

This instrument has been signed by the parties and their instrumental witnesses refer to a LEASE/PURCHASE AGREEMENT.

WITNESS MY HAND AND SEAL on the place and date above written.

NOTARY PUBLIC

Doc. No. _____
Page No. _____
Book No. _____

Until _____
PTR No. _____

ANNEX 2. USUFRUCT AGREEMENT

Page 1 of 7
 Usufruct Agreement
 Southville 3 Housing Project
 Muntinlupa City

SAMPLE

USUFRUCT AGREEMENT SOUTHVILLE 3 HOUSING PROJECT NBP Reservation Area, Muntinlupa City

KNOW ALL MEN BY THESE PRESENTS:

This Agreement made and executed by and between:

NATIONAL HOUSING AUTHORITY, a government corporation created and existing under Presidential Decree No. 757, as amended with the principal office at NHA Bldg., Diliman, Quezon City, Metro Manila, represented in this act by its, _____ hereinafter referred to as "ADMINISTRATOR";

-and-

_____, of legal age, Filipino, single/married to _____, with residence and postal address at _____ hereinafter referred to as "USUFRUCTUARY";

WITNESSETH:

WHEREAS, Memorandum of Agreement for the utilization of the Right-Of-Way for and the implementation of the Daang Hari-SLEX Link Road Project dated 30 June 2009 provides among others that NHA shall prepare and implement the relocation and resettlement plan for the qualified informal settler families to be affected by the Daang-Hari-SLEX Link Road Project being referred to as "Right-of-Way" or "ROW"

WHEREAS, Proclamation No. 234 dated 15 August 2002 excludes a parcel of land with an area of Five Hundred Thousand (500,000) square meters from the National Bilibid Prison (NBP) Reservation Area in Brgy. Poblacion, Muntinlupa City living in danger areas;

WHEREAS, Proclamation No. 335 dated 27 February 2003 amends Proclamation No. 234 declaring the National Housing Authority as ADMINISTRATOR of the said parcel of land and implementing agency of its site development.

WHEREAS, the said parcel of land shall be developed into the Southville 3 Housing Project, wherein portion of the generated homelots was identified as the in-city resettlement site of the qualified informal settler families affected by the Daang-Hari SLEX Link Road Project.

WHEREAS, Proclamation No. 1159 dated 08 September, 2006, which covers the 366.70 hectares remaining portion of the NBP Reservation Area provides, among others, that usufruct shall be applied to dwelling units in government socialized housing sites for an initial period of (50) years;

WHEREAS, the USUFRUCTUARY is included in the list of qualified families affected by the said project and qualified for in-city relocation assistance.

NOW THEREFORE, for and in consideration of the foregoing premises and the mutual covenants and the stipulations herein set forth, the PARTIES hereto agree as follows:

I. DEFINITION OF USUFRUCT

Usufruct, in general, grants an individual or an entity a right to enjoy the property of another with the obligation of preserving its form and substance, unless the title constituting it or the law otherwise provides.

Pursuant to the provisions of the Presidential Proclamation Nos. 234, 335, and 1169, the NHA had been designated as the ADMINISTRATOR of the Southville 3 Housing Project site and grants the project beneficiary usufructuary rights over a residential lot in said project.

II. PROPERTY IN USUFRUCT

The property subject of usufruct is identified as Phase ___ Block/Pcs ___, Lot ___ with an area of ___ square meters, located in the Narangay of Poblacion, City of Muntinlupa, Metro Manila and covered by Transfer Certificate of Title (TCT) No. _____ of the Registry of Deeds of Muntinlupa City, copy of which is hereto attached as annex "A" and made an integral part of this Agreement.

III. PERIOD OF USUFRUCT

This Usufruct Agreement over the subject property shall be valid for a period of fifty (50 years) from ___ to ___ unless prior cancellation is made by the ADMINISTRATOR due to the violation of any of the herein conditions and restrictions.

IV. RIGHTS AND OBLIGATIONS OF THE PARTIES

1. The ADMINISTRATOR shall:
 - a. Grant and allow usufructuary right over the subject property.

- b. Act as Administrator and implement programs pertaining to maintenance and development.
- c. Perform such other necessary obligation as authorized by the law.

2. The USUFRUCTUARY shall:

- a. Take possession, preserve, utilize, continuously occupy and take care of the property in usufruct as a good father of a family exclusively for residential purpose of its own household;
- b. Abide with the occupancy rules and regulations stipulated hereto and other obligations and restrictions to be promulgated by the ADMINISTRATOR for purposes of project maintenance and uniformity.
- c. Oblige himself to repay the loan he obtained from the ADMINISTRATOR for the development of the property subject of usufruct in the amount of One Hundred Thousand Pesos (P100,000) less Twenty Five Thousand Pesos (P25,000) subsidy.
- d. Pay religiously the loans obtained from the ADMINISTRATOR based on the terms and conditions stipulated in the Loan Agreements hereto attached as Annexes "B" and "C" and made integral parts of this Agreement.
- e. Pay taxes, assessments and other fees levied upon the home lot and /or upon the improvement thereon effective upon execution of this Agreement;
- f. Undertake the necessary repairs and improvements of the property held in usufruct in accordance with the plans and specifications approved by the City Engineer as endorsed by the ADMINISTRATOR in such a way that he does not alter its form and substance.
- g. Notify the ADMINSTRATOR of any act of a third person that may be prejudicial to the rights of the ADMINSTRATOR.
- h. Perform such other necessary obligations as may be authorized by the ADMINISTRATOR.

V. OTHER TERMS AND CONDITIONS

1. The usufructuary right granted herein shall not be transferable to other parties except to the heir (s) in cases of hereditary succession who qualifies under NHA's criteria for beneficiary selection.
2. All permanent improvements introduced by the beneficiary in the property in usufruct shall be considered as attachment and shall form part of the subject homelot in the event of cancellation of usufructuary right by the administrator arising from the violation(s) of any restrictions herein provided.
3. Any condition or inaction by the ADMINISTRATOR with respect to any violation of the terms and conditions of This agreement by the USUFRUCTUARY shall in no case be interpreted as relinquishment by it of any of its rights under the Usufruct Agreement

4. This Agreement shall be binding upon the qualified heir, executor, administrator, or successors-in-interest of the respective parties hereto.
5. In case of dispute and/or litigation arising from this agreement, the venue of actions shall be in the proper courts of Quezon City, Metro Manila to the exclusion of other courts.
6. This usufruct agreement shall be extinguished by
 - a. the death of the USUFRUCTUARY unless the heirs manifest their desire to continue the usufruct and qualifies under the Beneficiary Selection Guidelines;
 - b. the expiration of the period for which it was constituted;
 - c. the renunciation of the usufructuary;
 - d. by the total loss of the property held in usufruct;
 - e. by the termination of the right of the person constituting the usufruct.

IN WITNESS WHEREOF, the PARTIES have hereunto set their hands this _____ day of _____, 200__ at _____, Philippines.

ADMINISTRATOR:
NATIONAL HOUSING AUTHORITY
By Authority of the General Manager

USUFRUCTUARY:

Conforme:

(Spouse)

SIGNED IN THE PRESENCE OF:

ACKNOWLEDGEMENT:

Republic of the Philippines)
_____, Metro Manila) S.S.

BEFORE ME, a Notary Public personally appeared the following persons:

Name

Valid Identification Document

known to me and to me known to be the same persons who executed the foregoing Usufruct Agreement and acknowledged to me that the same are their free acts and deeds they represented herein.

WITNESS MY HAND AND SEAL.

NOTARY PUBLIC

Doc. No. _____
Page No. _____
Book No. _____

Until _____
PTR No. _____

REPUBLIC OF THE PHILIPPINES
NATIONAL HOUSING AUTHORITY
Diliman, Quezon City

OCCUPANCY RULE AND REGULATIONS

1. Every project beneficiary is required to observe and strictly comply with all the terms and conditions of this Agreement and such other rules and regulations that have been or may hereinafter be promulgated by the regarding the use and disposition of the lot, streets, alleys, recreation park and facilities and public utilities whenever notice of such rules and regulations have been delivered or made known to him.
2. Lots shall be used strictly and exclusively for residential purpose. Any use thereof other than residential shall be with prior written consent of the National Housing Authority. The lot or any part thereof shall not be used or permitted to be used for any illegal or immoral purposes.
3. No building shall be erected on the premises nor alterations and repairs on any fixtures and fittings on the improvements and utilities be made in and outside the lot without the prior written consent of the Authority. The plans therefore must be duly approved by the proper governmental agencies.
4. Boundary fences are allowed only for purposes of security and protecting plants and ornamentals existing thereon and in no case shall exceed one and a half meters (1.50 m). the project beneficiary shall at all time keep the grass cut and trimmed whenever they shall constitute a fire hazard to the adjoining properties. Uniformity of size and color of fences shall be observed, as may be designated by the National Housing Authority or Barangay.
5. All residents shall take good care of all the plants and trees in the project grounds, mini parks, pocket parks, as well as their protective enclosures.
6. The project beneficiary shall not cut down, damage, injure or remove any tree or shrub, either ornamental or fruit-bearing, or remove or quarry any stone, rocks or earth within the lot subject of this agreement without written consent of the National Housing Authority.
7. The project shall maintain and observe strict cleanliness and sanitation within the lot and its immediate surrounding, particularly the pathways, alleys, streets and recreation parks and facilities. All the residents therein shall refrain from injuring, damaging, or defacing recreational facilities and public utilities and from littering the premises, pathways, alleys and streets. Garbage should not be allowed to accumulate but shall be placed in receptacles within the unit away from public view, and be brought out only at designated hours for collection by the garbage truck. Trash or garbage shall not be thrown in the alleys, pathways, streets or any open space.
8. Walkways, pathways and alleys, being intended for the use of people and for bicycles or motor-cycles, must be kept free from any obstructions, such as clothesline, clothes dryers, equipment, motor-vehicles and/or junk/scrap materials.

9. Project beneficiary shall protect the lot from any intruder and, at his own exclusive risk and expenses, shall undertake whatever lawful means and actions necessary to protect and preserve his rights and interest under said lots.
10. Pets shall be kept or maintained within the premises of the lot.
11. Entry to the lot by an authorized representative of the National Housing Authority shall be allowed.
 - a. At any time in case of emergency originating in or threatening the lot, or for the purpose of enforcing the occupancy rules, or removing the cause of any violation of any of these rules.
 - b. Upon prior notice to the beneficiary and during reasonable office hours, to inspect the premises of the lot, or to perform any installations, alterations, or repairs the mechanical or electrical services and utilities.

ANNEX 3. GLTN MULTI-STAKEHOLDERS' WORKSHOP I

John J. Carroll Institute on Church and Social Issues (JJCICSI)

Conference Room A, Social development Complex, Ateneo de Manila University

April 6, 2010

Participants

1. Elsie Aradanas Presidential Commission for the Urban Poor
2. Pheobe Bestal Las Piñas Sunshine Ville HOA
3. Victoria Calderon Land Bank of the Philippines
4. Florencio Carandang Social Housing Finance Corporation
5. Noel Cardona Muntinlupa Urban Poor Affairs Office
6. Jeanette Cruz Housing and Urban Development Coordinating Council
7. Corazon de Leon Housing and Urban Development Coordinating Council
8. Vicky de Villa AusAid
9. Eden Garde UN- HABITAT
10. Cora Jose University of the Philippines
11. Maria Ana Ignacio KASAGANA-Ka
12. Anna Marie Karaos JJCICSI (facilitator)
13. Wilmina Lara University of the Philippines
14. Arlene Lusterio TAO Pilipinas
15. Maripy Marcos Social Housing Finance Corporation
16. Winston Morella Presidential Commission for the Urban Poor
17. Denis Murphy Urban Poor Associates
18. Araceli Natino National Housing Authority
19. Gerald Nicolas JJCICSI
20. Chris Pablo World Bank
21. Emma Porio Ateneo de Manila University
22. Gladys Ann Rabacal JJCICSI (documentalist)
23. Ethel Salvador Muntinlupa City Planning and Development Office
24. Jeorgie Tenolete Kabalikat- BASECO
25. Erwin Tiamson Land Administration and Management Project
26. Alma Valenciano National Housing Authority
27. Gertrudes Villa Payatas Golden Shower HOA
28. David Yap UP- School of Urban and Regional Planning

PROCEEDINGS

PRELIMINARIES

The workshop was opened by Dr. Jing Karaos, the project director, at 10:29 am. She acknowledged the participants and thanked them for coming. She mentioned that the workshop's primary objective is to present the initial findings of the study garnered through case studies and FGDs.

- Self Introduction followed.
- Dr. Karaos discussed with the participants the flow of today's workshop as follows:
- Presentation of key points from the three case studies
- Plenary discussion on points presented
- Workshop breakout groups
- Presentation of the highlights of each workshop group
- To level-off, Dr. Karaos discussed about the UN HABITAT's Global Land Tools Network being the agency that commissioned the research. She mentioned its mandates and its membership composition. She also said that a major output of this study is a process guide which is a practical tool that shows the steps on how the poor can acquire security of tenure. It will also include contracts as tools and strategies or specific methods towards straightforward land tenure acquisition.

PRESENTATION OF THE KEY POINTS OF THE RESEARCH

The research has conducted two case studies for each tenure approaches. For the CMP, the Golden Shower, Payatas, Quezon City and Las Piñas City were examined. For the Presidential proclamation, the cases of National Government Center, Quezon City and BASECO Manila were looked into. Taguig City and the National Bilibid Prison (NBP) Resettlement, Muntinlupa meanwhile were the cases studied for usufruct.

Aside from the six case studies, four sets of Focus Group Discussions (FGDs) were also conducted with the following compositions: (1) NGOs and POs, (2) Land professionals, academe and development aid agencies, (3) Housing agencies and LGUs and (4) Housing finance institutions and Micro Finance Institutions.

Key challenges and lessons in implementing alternative tenure approaches

Benefits

- There's support for policy of in-city housing for the poor.
- It enables provision of services to untenured poor communities or informal settlements.
- There's an opportunity for the government to exercise control of land resources. Thus, enabling exercise of land management by government.
- Secure tenure is made more affordable, at a reasonable cost.
- Rights-based instruments can simplify tenure regularization process.

Limitations and Challenges

- Accountabilities are clear but weakly enforced. Responsible agencies were not being sanctioned for not doing its jobs, as seen in NGC and BASECO.
- Funding and financial sustainability is a continuous challenge especially in terms of collection. It was more problematic for presidential proclamation since national government's commitment on funding is not clear.
- There are uncertainties associated with presidential proclamations and usufruct. There were alleged displacements that happened in proclaimed sites.
- The challenge of ensuring affordability remains. There are no clear guidelines on how the land is being priced and to what extent is the government's commitment to subsidize and how to make it balanced.
- Squatting syndicates are also considered setbacks for they continuously fool the poor people while taking hold of the land.
- The urban poor should also be safeguarded to avoid unauthorized transfer of rights and substitutions of poor by non-poor beneficiaries especially on CMP sites.

Urbanization trends and their implications

- There's declining supply of land and rising land prices. Usufruct approaches in MRBs are slowly becoming an evident solution.
- High population growth in cities and increasing densities in informal settlements is also seen. The housing programme should take into consideration how can more people benefit from a given piece of land.
- The tenure approaches should be "Social or community-based" versus private use and ownership of land.
- The government has to do deliberate efforts to promote land consolidation and management. The state should help the local governments do land-banking.

Laws

- There's a need for intermediate rights-based instruments guaranteed by law and recognized widely or negotiable across institutions of government and the private sector
- The interpretation and implementation of housing laws and policies among government agencies should be harmonized.
- The government's power to expropriate for purposes of social housing should be strengthened.
- Consider the implications of the new Free Patent law to security of tenure.
- The existing land registration laws are ownership-based.

Institutional and governance structures

- The accountabilities of the institutions should be defined & enforced more clearly

- The scope for involving local governments should be increased
- Short political cycles of local government administrations
- Need for local government capacity for land consolidation and management
- Partnerships with NGOs and private sector

Role of communities and community associations

- Consensus building and negotiation
- Continuing community participation
- Protection of rights and needs of vulnerable members
- Participation of women in community organizations
- To facilitate payment collection
- Accessing additional resources for community needs

People's perceptions of security

- Ownership still favored and perceived as most secure
- Uncertainties associated with presidential proclamations and usufruct were perceived (threats from eviction, etc)
- Acceptability of other tenure forms contingent on availability of in-city housing options
- There is scope for increasing security through intermediate tenure instruments

Role of the private sector and finance institutions

- Developing new modes of financing land tenure and housing (SHFC, state-run financial institutions, MFIs, cooperatives, Bangko Sentral order requiring low-cost housing finance)
- Developing negotiable tenure instruments acceptable to financial institutions
- Government partnerships with NGOs, private sector (e.g. Taguig) for leveraging resources

COMMENTS ON THE PRESENTATION

Land Valuation Bill

Ms. Janet Cruz of HUDCC mentioned that there is already a pending Land Valuation Bill. According to her, this rule helps them in determining clear market value of the land. She added that there were also new courses being offered on land valuation as part of the second Land Administration and Management Project (LAMP 2) Project. Ms. Alma Valenciano of NHA mentioned that the bill harmonizes the land valuation for all sites even across land uses.

Dr. Karaos asked if the LAMP bill propose a uniform system of valuation. Atty. Tiamson, Technical Adviser of LAMP told her that there is so called RESA or the Real Estate Service Act of which the objective is to standardized land valuation.

Land Management courses

Mr. Dave Yap of UP SURP mentioned that Land Management courses such as Land Economics is being offered in Visayas State University and UP SURP through LAMP 2. Moreover, he admitted that the land management in the country is weak. Despite this fact, the land management bureau's programmes are already underway. AusAid is already thinking of doing LAMP 3, of which the focus is on education regarding land management.

The case of Leyte

Mr. Yap advised Dr. Karaos to try to see the case of Leyte. Its land registration records were well organized and information on the land owners was easily retrievable so implementation of programmes such as usufruct is more doable. Dr. Karaos recognized Mr. Yap's point by saying that the case of Leyte is really interesting to look at.

Communal ownership "rights"

Mr. Yap added that there were prevalent communal ownership "rights" among our Indigenous peoples. Even in urban centers like Pasig, a certain community respect the rights of others even there's no formal land titles. Mr. Yap urged the group to study that kinds of situation deeper and then try to make formal instruments out of it. After all, it's proven to work among the Filipinos.

Free Patent Act

Speaking about the relevant laws, Atty. Tiamson added that the passage of the Free Patent Act or RA 10023 extends application of free patent to residential lands. DENR is already drafting the IRR. Under the Free Patent Law, the only payment to be made is the 50-peso application fee, though the survey aspect of land disposition has its corresponding costs. There were already available instruments to carry out the law, courtesy of the local governments. For Atty. Tiamson, in general, this law proves to be a viable opportunity to gains access to land.

LGU and the squatting syndicates

Mr. Winston Morella of PCUP cited that the LGU has a big role on slum upgrading. He also raised the concern on the squatting syndicates proliferating in Las Piñas. PCUP have received reports that more residents prefer paying fees to the syndicates than to fulfil their monthly dues. Mr. Morella perceived that the LGU doesn't do anything about it and they are in fact part of the housing corruptions. Community associations are reportedly paying illegally to the BIR and RD just for titling purposes. The Local Housing Board and the NHA's mandates should be "enriched" to counter syndicates and corruption issues. Dr. Karaos added that this can be an "issue of credibility": why do the people believe/trust the syndicates more than the government?

Recognizing that the country has "weak" laws to address the issues mentioned above, Ms. Cruz said that the most effective way to respond to housing syndicates is to "go down to the area and disclaim their claims". She

added that there is a PNP group who were trained in terms of dealing with anti-squatting issues who can be helpful if in case harassment happens.

Atty. Tiamson declared that the urban land administration system should be re-engineered. There were a lot of opportunities for the land syndicates because of the inaccurate land titles that often cause confusion. An inventory of all land parcels should be imposed and made accessible to clients. However, his suggestion cannot be done on the current set-up. The country lacks a land administration office to address these matters. Dr. Karaos responded that the Local Government Units should be given capacity for land administration.

No stated timeframe

Ms. Me-An Ignacio of KASAGANA-KA commented that the concepts presented contradicts each other because there's no stated time frame for each action. She added that there are weaknesses among the ranks of the urban poor sector and those should be addressed first before opening another "Pandora's box". She mentioned that Thailand has an efficient land titling system that only takes 30 minutes, way different with the scheme in the Philippines. She further reiterated that there's a need to just fix the flaws of our current system especially the judicial concerns and the programmes in both rural and urban areas.

LGUs need to be empowered

She made another comment about the LGUs by saying that housing concern is really in their command, they just need help in order "to put the act together". The national agencies should empower the LGUs in planning and mapping. The operational function of the LHB should be made clear. She pointed out that there have been LAMP "indicators" lined up to assess local governments. The housing and land development part was claimed to be weak and even the national housing agencies were not serious on fulfilling the required minimum expertise among their ranks. Those were some of the reasons why after 10 years of working with the sector, the same predicaments appear. Dr. Karaos replied that the concrete targets Ms. Ignacio mentioned in her previous comment can be brainstormed in the workshop this the afternoon.

Intermediate right-based instruments

Dr. Karaos explained further that the "intermediate right-based instruments" she mentioned is treated for the purpose of providing security and not so much on access to finances. It is a rights-based instrument to be provided short of a title in which the claim is being an occupant. This is primarily for security of tenure. But it can be a double-edge if one makes this a negotiable instrument. The rights-based instrument only shows that one is already free from the threat of eviction.

DBP and usufruct

Ms. Eden Garde of UN-HABITAT mentioned that under the Development of Poor Urban Communities Sector Project, Development Bank of the

Philippines (DBP) has recognized usufruct as a housing approach. She was just not sure if the approach is being honoured in other banks. Dr. Karaos further stated that even Pag-IBIG allows usufruct loan but only if it is replaced by another property.

Concern on the environment and BASECO's case

Ms. Ignacio cited that housing alternatives should not be environmentally-blind as well, especially that the urban sector have experienced Ondoy. She mentioned that BASECO is a dangerous place but because the urban poor demanded for the place, they continue to inhabit it. She urged the group to have a concrete position on these kinds of issues. Dr. Karaos replied that the land disposition in BASECO was distressed because it failed the soil test. The “environment issue” is becoming prominent course because there is no alternative resettlement site. Moreover, the “staff work” is not fully executed when proclamations are pronounced. Ms. Cruz added that this is a question of what “engineering solution” is possible. She further added that the faulty proclamation in Manggahan Floodway was never endorsed by HUDCC.

Mr. Georgie Tenolete of BASECO stated that there was a mapping survey conducted covering the 6,060 families residing in BASECO. HUDCC made its way to proclaim the land. But the community is left puzzled on what agency should take the lead in land titling. It's not really the fault of the community that they are on a danger area. He added that the technical inspection should happen ahead of the proclamation. He suggested that the newer housing being built by GK and Habitat for Humanity is now considering the findings of soil-testing studies. As of the moment, they are counting on HUDCC on how to go about the process.

Ms. Cruz cited that BASECO's case is really a big debate, on whether or not the people should remain in the place or bring them to another safer area. The engineering solution in this case is very costly and cannot be assured if it will be sustained. Ms. Ignacio thought that there are still “creative” approaches to be employed so that the communities will not be put at risk. Mr. Morella declared that the land titles are useless if the area will just be submerged in water. There's an expressed want for a rights-based proclamation but if there is a disaster waiting to happen, titles will go to waste.

Executive Order 841

Ms. Garde pointed out the Executive Order 841 that ordered the LGU to pass their respective comprehensive Land Use plan within 6 months. Ms. Garde claimed that the timeframe is unrealistic. Although she recognized that LGUs should really have this political will to declare unsafe areas as inhabitable already.

Dr. Karaos revealed that there can be political will but doubted if there's really a solution being offered. The question now lies on who has the call to manage the land and who has the ability and capacity to make alternative tenure options for the poor.

Lunch break at 12:20 pm.

Workshop breakout groupings

Dr. Karaos grouped the participants into two: Group 1 will discuss Presidential proclamations and Group 2 will talk about usufruct. CMP will be discussed by the participants of the workshop next Monday.

Group 1

1. Winston Morella, PCUP
2. Jeanette Cruz, HUDCC
3. Maripy Marcos, SHFC
4. Cora Jose, UP
5. Vicky de Villa, AusAid
6. Denis Murphy, UPA
7. Ethel Salvador, Muntinlupa
8. Pheobe Bestal, Las Piñas
9. Alma Valenciano, NHA
10. Gertrudes Villa, Payatas

Group 2

1. Arlene Lusterio, TAO Pilipinas
2. Elsie Aradanas, PCUP
3. Araceli Natino, NHA
4. David Yap, UP
5. Jeorgie Tenolete, Kabalikat
6. Florencio Carandang, SHFC
7. Noel Cardona, Muntinlupa
8. Victoria Calderon, Landbank
9. Erwin Tiamson, LAMP
10. Corazon de Leon, HUDCC
11. Wilmina Lara, UP

Before the participants break into groups, the guide questions on usufruct and proclamation were presented as follows:

A. Is it desirable to institutionalize Presidential proclamation / usufruct?

B. Is it feasible to institutionalize PP/usufruct given existing laws and institutions? What changes, if any, in existing laws and institutions would be needed to institutionalize PP/usufruct?

C. How can a public tenure regularization programme be designed institutionalizing the PP / usufruct?

- Which agency/ies would be most suited to administer/ implement it?
- What would be the features of the program? What would be the steps involved in securing tenure? What tenure instruments should be provided? What rights would the beneficiaries enjoy?

- What institutional arrangements would be most effective to implement it? What, if any, would be the role of LGUs and other agencies?
- How can/should the programme be financed? How is cost-effectiveness be assured? How can the programme be made sustainable?

D. What would be doable next steps toward letter C?

(Example: How do we advocate? To whom do we advocate? Are there any “tools” we need or we can use for advocating? What are such “tools”?)

Dr. Karaos also levelled-off with the participants the definition of institutionalization. She mentioned that institutionalization comprised 3 elements: (1) the approach has clear steps towards tenure security, (2) there is an agency that implements the approach, and (3) there’s a clear budget that funds its implementation.

Comments for Presidential Proclamation

1. Ms. Valenciano said that there should also be institutional arrangements between land owner and administrator in proclamations.
2. Ms. Garde added that the program’s feature has to come with other components like livelihood and capacity building. The programme should also feature “changing mindsets of the people” so that they will “own” the community, give their counterparts and manage their own affairs. It should also be client-oriented to be able to consider the people’s capacity to pay.
3. Ms. Valenciano stated that incentives should also be given for NGOs who can participate in the programme.
4. Dr. Karaos inquired about the current restriction on transfer of rights. The NHA told her that any beneficiary should be “updated” before he/she request for a transfer. Permission from the NHA is a necessary prerequisite. After the 10-year restrictive period from the release of title, one can apply for transfer but it has to be cleared by NHA. The agency checks if one is fully paid. The seller is disqualified already from availing any government housing programme and the buyer should have never been awarded of any form of socialized housing. The transfer of rights to children is legal for as long as there are instruments like a Memorandum Order.
5. A deed of donation or extrajudicial settlement. NHA still checks on who availed of the transfer of rights even after the 10-year restrictive period.
6. Just to clear up the report on the 20 percent balanced housing, one of the group members stated that the compliance should be in the form of financial funding for the proclaimed site.
7. Ms. de Villa told the group about the case of Taguig where the DMCI money was held by an NGO like Gawad Kalinga so that the funds need not go to the local budget. The money was used by GK to build the houses. The local government, as land owner, put the programme under usufruct arrangement as it authorizes other builders to construct MRBs.
8. Ms. Garde explained what the Philippine Urban Consortium, which was previously known as the Philippine Urban Forum, is all about.

NEDA, HUDCC and the Department of the Interior and Local Government were the three big agencies that handle the consortium of which the purpose is to act as platform for discussion to formulate actions on urban issues. The National Urban Development and Housing Framework (NUDHF), which will run from 2009- 2016 were tapped, focusing on the following areas: (1) shelter and basic services, (2) participatory planning (3) sustainable communities, and (4) competitive urbanization. Working groups were formed to cater to the four items above. Ms. Garde suggested that today's discussions can be penetrated in the Consortium to acquire specific, necessary actions. Mr. Carandang clarified the NUDHF document saying that its timeframe is only from 2008-2010 but Ms. Garde said that the same document was extended until 2016. Dr. Karaos stated that this document must be checked with HUDCC.

9. Ms. De Leon asked about the "LGU-led agency" issue on institutional governance structure. Ms. Garde responded that LGU- led structure is "not limited to the executive". The planning officer should be there, just like UPAO. This is to make sure that all department heads that are into the urban and shelter issues are "behind the mayor". This can be a form of a sustainability mechanism. Ms. Garde cited Muntinlupa for having a good local housing board that serves as a good mechanism and a back-up. A participant suggested to mandate the LGU through a form of a local government ordinance.
10. Mr. Cardona of Muntinlupa said that there is already a law so no need to craft new ordinances. Just make sure that the laws are properly implemented. Moreover, as the Presidential Proclamation is institutionalized, the POs and NGOs should be represented for they are part of the process. He added that LGUs don't have the authority to exempt tax payments on socialized housing so it's good if the sector will advocate so that LGUs may redeem the authority over this matter.
11. Dr. Karaos inquired about the capital gains in the proclaimed lands. The group said that even if lands are under NHA's administration, the treatment still varies because not all BIR regional offices honor proclaimed sites.
12. Mr. Carandang asked the group to point out items under the "features of the program" that are not being implemented as of now. Ms. Valenciano answered that there were proclaimed site that didn't undergo the correct procedure just like the case in Davao- "land during daytime and submerged in water during night time". This example didn't go through the designated process, environmental clearances were not secured that's why they encountered difficulty in disposing the land to the beneficiaries. The inter-agency cannot move also because there's no adequate funding. Mr. Carandang's suggestion is to have a "strengthened inter-agency coordination" instead.

Comments for Usufruct

1. Dr. Karaos clarified that the instruments crafted under usufruct will be used to safeguard the rights of the people- for them not to be easily dispossessed with the rights to the land.
2. In NBP, Ms. Valenciano shared that it was annotated in the individual title that the land is under usufruct therefore cannot be sold or leased. In that sense, Dr. Karaos mentioned that it's one way of making restrictions.
3. Ms. de Villa added that in Taguig, they follow the law of inheritance for transfer of rights. Ms. de Villa also told the group that Taguig involves the NGOs in their housing programmes because they have flexible mechanism for collecting donations, value formation and estate management.
4. Pag-IBIG is also involved in financing the NBP employees' housing in Muntinlupa, covered by a MOA, using CCT, as mentioned by Ms. Valenciano.
5. Mr. Carandang also added, taking from the comments of Mr. Pablo in the breakout groups, that there is a government policy on housing but it's not concretely visible in the national housing programme. There are a lot of programmes but those were not written in policy materials explicitly (usufruct for what sector, etc).
6. Ms. de Villa said that in the implementing institutions, POs and NGOs should be included.

Closing

Ms. Valenciano suggested that HUDCC has its Post-proclamation guidelines booklet which can be used as reference for the doing the process guide. Dr. Karaos thanked the attendees for their active participation. Another workshop was set next Monday for those who were not able to attend today's session.

End of workshop: 4:26 pm.

ANNEX 4. GLTN MULTI-STAKEHOLDERS' WORKSHOP II

John J. Carroll Institute on Church and Social Issues (JJCICSI) Conference
Room B, Social development Complex, Ateneo de Manila University

April 12, 2010

Participants

Lita Asis-Nero	Foundation for Development Alternatives (FDA)
Victoria C. Calderon	Landbank of the Philippines (LBP)
Corazon P. de Leon	Housing and Urban Development Coordinating Council (HUDCC)
Anna Marie A. Karaos	John J. Carroll Institute on Church and Social Issues (JJCICSI)
Elenita S. Mantalaba	Polytechnic University of the Philippines - College of Cooperatives
Gerald M. Nicolas	JJCICSI (documenter)

Proceedings

(Because of the low attendance, the project director decided to reformat the discussion into a focus group discussion instead of a workshop. Before formally starting at 12:30 p.m., Dr. Karaos and Ms Mantalaba had a small talk about housing cooperatives. Below are some salient points.)

Responding to a question by Dr. Karaos, Ms. Mantalaba said that housing cooperatives, although not yet institutionalized or mainstreamed, are really into housing. The cooperative serves as the borrower then collects from its members. Collective ownership and estate management are among the features of projects of housing cooperatives.

Moreover, the new Cooperative Code (passed 2008) encourages housing cooperatives by giving privileges such as tax exemptions (capital gains and transfer tax), interest rates that are equal or better than socialized housing (if project falls under the socialized housing criterion), grant loan processing without individual processing.

Housing cooperatives are either newly organized or a spin-off of an old cooperative. The Implementing Rules and Regulations (IRR) of the said code require a membership of 30 persons, although Ms. Mantalaba thought 15 members for an in-city housing cooperative can suffice.

With the benefits and privileges afforded to cooperatives, housing is a very viable product. However, Ms. Mantalaba admitted, target beneficiaries may be limited to members. Only when there are no takers that non-members can avail of loans from a housing cooperative. In terms of income distribution, housing cooperatives mostly cater to regular employees who would take-out a project via Pag-Ibig.

Informal settlers, Ms. Mantalaba added, may need subsidy from government. She recalled a project of the Habitat for Humanity in Taguig

where beneficiaries pay PhP5,000 per month for 10 to 15 years. Households with incomes below PhP10,000 are usually not qualified. Cooperatives that cater to the informal sector are those which has vendors as members, although they can eventually venture into housing. One similarity with government housing projects is that beneficiaries of housing cooperatives should not be homeowners.

INTRODUCTION

The actual session started at 12:30 PM.

Dr. Karaos explained that the discussion would focus on the Community Mortgage Program (CMP) as the first workshop last April 6 centered on Presidential proclamation and usufruct. Basing on the backgrounds of the participants, she suggested that the discussion center on how to strengthen the CMP as an approach for security of tenure.

Ms. Mantalaba started the discussion by sharing her observation that after individualization, CMP beneficiaries tend to sell their lot due to increase in the value of the property. Many of those who were relocated to Cabuyao, Calauan and Bocaue, she added, have also returned to where they used to live. This has been a weakness of government-funded housing projects.

Ms. de Leon of HUDCC admitted being disappointed with incidences of reversals in government housing projects, although the reason often given by beneficiaries is the lack of income. She also admitted that social services are not sufficient in resettlement sites and interventions during transition period have been limited to livelihood trainings and medical missions.

Dr. Karaos said that resettlement as a practice is not viable unless the local economy of the host community is developed.

Ms. Mantalaba agreed and said that the local government has a huge role to play in improving the condition in resettlement sites and other housing projects. In Muntinlupa for example, the LGU was very supportive of housing cooperatives.

She also mentioned the need to come up with alternative housing schemes for informal settlers. In-city solutions include medium-rise buildings (MRB).

Dr. Karaos explained that it is this locational imperative, i.e., the need to be near the places of employment, afforded to the urban poor by CMP, Presidential proclamation and usufruct that makes in-city housing feasible and acceptable.

Ms. Mantalaba observed that many of the relocatees still work in the city because prospects for employment such as factories are lacking in areas where they are transferred. But in some periphery areas like GMA, Cavite, development and improvements in infrastructure have attracted residents to stay in the resettlement site and work within the vicinity. Many worked as construction workers in subdivisions.

For Dr. Karaos, those who had sold their units in resettlement sites would have no regrets if in the beginning there were enough livelihood opportunities around them. Development of the area is as important as providing housing units to the relocated families.

In defense of the government, Ms. de Leon said that HUDCC tries its best to attract investors. Relocated families are often told, according to her, to endure the situation first because eventually things will get better (“Pagtiisan ninyo kasi kalaunan maaayos ang lugar n’yo.”)

DISCUSSION ON COMMUNITY MORTGAGE PROGRAM

Redirecting the discussion back to CMP, Dr. Karaos posed the following questions:

- a. How can it address security of tenure (not in terms of providing housing)?
- b. How can it address the issues to be more effective as an approach?

She reechoed some issues pertaining to CMP that came up during the FGDs:

- a. Because the objective of CMP is to provide secure tenure and not actual housing, issues like substitutions (because the beneficiary could not pay amortization therefore giving up the awarded lot) reflecting the risk of defeating the purpose of providing tenure to the intended beneficiaries.
- b. The design of the CMP cuts up land into small pieces. Given the urbanization trend, CMP does not contribute in maximizing land and space in cities.
- c. Although institutionalized, the programme suffers from weak accountability.

As an institutionalized tenure approach, the participants were asked how CMP can be further strengthened given its existing implementation.

Ms. Mantalaba said that she is familiar with CMP, and the inequitable distribution of lot (i.e. “as is, where is”) has been one of its problems. While on-site is a good feature, discipline on repayment and accountability remain to be issues. There are also communities which are not fully organized.

To a certain extent, Ms. Mantalaba explained, housing cooperatives enjoy more advantages compared to programmes like CMP. Housing cooperatives can do business and generate income.

For Ms. de Leon, beneficiaries of housing cooperatives seem to be more committed to their obligations compared to CMP beneficiaries.

Dr. Karaos, on the other hand, believed that the difference in level of commitment could be explained by the difference in target. CMP caters to urban informal settlers.

For Ms. Mantalaba, regardless of income, the success of a project depends on programme and estate management.

Speaking as a CMP originator, Ms. Asis-Nero explained that NGOs basically facilitate the project implementation by assisting the organization in documentation and capability building. They also serve as check-and-balance especially on savings and amortization collection. She reiterated that an NGO and community organization enter into partnership with clear roles and responsibilities. Originators do not simply enter into a

community. In the case of FDA, it works in communities with existing organizations. They also do financial auditing to ensure transparency.

Dr. Karaos added that an NGO originator stays in a community until take-out or individualization. These activities are taken care of by the community organization. Unlike in housing cooperatives where the cooperative receive the payment, CMP beneficiaries pay directly to SHFC.

Ms. Asis-Nero clarified that people in a CMP project can opt to own the property collectively or individualize the title after take-out.

Ms. Mantalaba said that they are now advocating for “blanket loan” because of advantages such as exemption from transfer tax and real estate tax. Moreover, houses in cooperatives are considered perpetual lease or usufruct but can be transferred to an heir or back to the cooperative.

For Ms. Asis-Nero, CMP mostly target small properties especially for on-site projects and so people may tend to be less disciplined as those who are coop members which are required to give voluntary contributions and have shares in return. Payment discipline could be more feasible in an off-site project, because selection of beneficiaries is possible.

Ms. Mantalaba emphasized the need for social preparation to ease the resistance towards collective ownership. She said there is a need to realize that collective ownership is better than individual ownership, because a sense of community is inculcated among members. She nevertheless recognized that because many are wary of land grabbers, they prefer having individual titles. Moreover, although there is acceptance of such ownership at the grassroots level, most financial institutions like Pag-Ibig do not prefer collective ownership. She also cited examples abroad where a community collective own facilities like kitchens.

Ms. Asis-Nero said that there are CMP projects where related beneficiaries build common rooms in order to maximize their limited allotted space. This however is done after take-out, because SHFC has a “one house, one beneficiary” policy, e.g. one family must have their own kitchen.

Dr. Karaos suggested SHFC not to intervene in the structure specifications and focus instead on checking actual occupants. If SHFC allows vertical housing with several families occupying their own units but share common facilities at the first level, small land sizes in CMP can be justifiable.

Ms. de Leon thought that issues on repayment would ensue in such scheme.

Dr. Karaos responded that repayment is a different issue. The point is that space can be maximized by pooling families together.

Ms. Asis-Nero cited the walk-up apartment in Pasay City (originated by St. Hannibal Foundation) where families pay for the property and building. They are given condominium certificates as tenure instrument which they can give back to the organization if the beneficiaries decides to transfer to another place. The problem in the project, she continued, is the huge cost that the organization needed to solicit donations and pledges as a CMP loan was insufficient.

Common or collective ownership as an approach to address issues on land maximization and substitution in CMP projects.

For Ms. Mantalaba, it really depends on the willingness of people to live together. Ms. Asis-Nero seconded Ms. Mantalaba's opinion.

Ms. Calderon said that the coop department of the Landbank communicates directly to the end-buyers.

Ms. Mantalaba emphasized the need to change the mindset of people with regard to collective ownership.

Dr. Karaos agreed, saying that a shift of emphasis from private ownership to a more common and equitable use of space.

Ms. Asis-Nero suggested that coop practitioners should help NGOs accept the arrangement. Cooperatives can also invest on land through landbanking.

And because CMP targets small properties, government (HUDCC or SHFC) could do well by making available a list of foreclosed properties which can be put up for sale to interested urban poor organizations who wish to avail of a CMP loan to acquire land. Dr. Karaos said that a database would be very helpful. Ms. Asis-Nero agreed, saying that developers normally do not find pocket-sized properties worth their investments.

Inventory of foreclosed properties by SHFC or HUDCC.

Among the problems of CMP that Ms. Asis-Nero has observed is the limited funds for housing (PhP80,000) and site development (PhP15,000) per household beneficiary. Also, CMP remains inaccessible to many especially in terms of putting up the required equity. To the benefit of the communities, there are many NGOs and non-profit developers who are willing to help in building initial housing.

Ms. de Leon of HUDCC justified the equity as the community's commitment and an assurance to the government.

For Ms. Asis-Nero, government treats housing, even socialized housing, as a profit-generating enterprise that policies tend to restrict access of the poor. She cited the NHMFC which approved bogus project applications despite strict requirements. In her opinion, the most important considerations should be the presence of a clear title and willingness of the people to acquire the land.

To respond to the issue of delinquency, Ms. Mantalaba asked if NGOs can take the role of a guarantor, as the cooperative is in their housing projects.

Ms. Asis-Nero and Dr. Karaos said that the community organization itself acts as the guarantor with the land serving as the collateral. These, in their view, are enough to encourage people to do their obligations.

Ms. de Leon said that in reality, implementation of projects is really difficult and many projects have failed because the community organization is not committed. Educating the people is the key.

Ms. Asis-Nero begged to disagree. Reiterating the issue of restrictive requirements, she explained that before the community fully enjoys security of tenure after take-out, they have to undergo several processes

and meet site specifications such as the need to put up ripraps, clearing the road right of way, and reblocking. All these cut deep into the pockets of the community members. Then policies on occupancy further burden the organization that it becomes natural for some to lose interest and be cynical resulting in defaults. She described such policies as “anti-poor.”

Seeing Ms. Asis-Nero’s point, Ms. de Leon stressed the need for the government to have the political will to implement its policies so that people will follow, and at the same time be more flexible especially when the projects involve the poor. She said that government housing projects should be made more affordable (i.e. with lower interest) which will result in higher revenues for the government.

Ms. Asis-Nero also mentioned the negotiation with the landowner as a major bottleneck in the CMP process.

Ms. Mantalaba suggested that originators should encourage community organizations to start savings early on so that they can pay the equity and prove that they are willing to buy the property.

Ms. Asis-Nero proposed that the issue of substitution in CMP projects be studied. They have cases where substitution is not practiced (Nagkaisang Nasyon in Quezon City). They also have projects where beneficiaries transferred the rights to a relative or sold the property to someone within the community/barangay. Such incidences can lend insight on the issue of qualification. She would like to find out the percentage of beneficiaries who have sold awarded lots.

Dr. Karaos thought that the buyer can still be considered qualified as long as he/she is an urban poor. The problem becomes apparent if seen from the point-of-view of who lost tenure security, and if there are ways to help those who were forced to sell their lots.

Ms. Mantalaba said that the organization itself should be the first to help its members who have difficulty paying their amortization. The association can either use its funds to lend to the defaulting members. This will reflect the element of community relationship.

Although there are beneficiaries who really just want to earn profit from selling the land, such cases are extreme circumstance but can still be legitimate.

Ms. Asis-Nero suggested another way of helping the organization maintain 80% repayment rate. She said that those who have higher incomes can increase their amortization so that they can cover the losses incurred by the organization from defaulting members. Then again, this is up to the organization to decide and not the originator.

Moreover, the LGU has a huge role to play in CMP projects. She compared Malabon and Las Piñas; the former having no political will to eliminate land syndicates victimizing CMP beneficiaries, while the latter is hands-on in monitoring the repayment rate of organizations.

End

The session ended at 2:33 P.M.

THE GLOBAL LAND TOOL NETWORK

The main objective of the Global Land Tool Network (GLTN) is to contribute to poverty alleviation and the Millennium Development Goals through land reform, improved land management and security of tenure.

The Network has developed a global land partnership. Its members include international civil society organizations, international finance institutions, international research and training institutions, donors and professional bodies. It aims to take a more holistic approach to land issues and improve global land coordination in various ways. These include the establishment of a continuum of land rights, rather than a narrow focus on individual land titling, the improvement and development of pro-poor land management, as well as land tenure tools. The new approach also entails unblocking existing initiatives, helping strengthen existing land networks, assisting in the development of affordable gendered land tools useful to poverty-stricken communities, and spreading knowledge on how to implement security of tenure.

The GLTN partners, in their quest to attain the goals of poverty alleviation, better land management and security of tenure through land reform, have identified and agreed on 18 key land tools to deal with poverty and land issues at the country level across all regions. The Network partners argue that the existing lack of these tools, as well as land governance problems, are the main cause of failed implementation at scale of land policies world wide.

The GLTN is a demand driven network where many individuals and groups have come together to address this global problem. For further information, and registration, visit the GLTN web site at www.glttn.net.

ABOUT THIS PUBLICATION

This technical publication documents and draws lessons from the Philippines' experience in implementing alternative approaches in securing tenure for the urban poor. It also explores how these approaches can be institutionalized to achieve a larger scale and ensure sustainability. The study examines three approaches: presidential land proclamations, the Community Mortgage Program, and the usufruct arrangement. The key features of each approach are described and their application illustrated through two actual cases.

The approaches are then analyzed in terms of the legal and institutional frameworks that supported their implementation and the benefits they delivered, both as perceived by the beneficiaries and in terms of meeting the broader social need for secure housing and tenure.

The analysis also explores the factors which helped in the successful implementation of the approaches, as well as the constraints and difficulties encountered in the process.

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