

Philippine Copyright 2014
by Social Development Research Center-DLSU

ISSN 2244-0364

All rights reserved. No part of this series may be reproduced (in any manner whatsoever) without the express agreement of the author and the Social Development Research Center.

The opinions expressed herein are those of the author/s and do not necessarily reflect the views of the Center.

Series Editor: Connie Jan Maraan
Layout Artist: Maria Catherine D. Domingo

About SDRC

SDRC is the Social Science research arm of the College of Liberal Arts of De La Salle University, Manila. Its mandate is to conduct research about, build capacities for, and promote public awareness and discussion of emerging social issues about quality of life, social development, and the nation's growth. The Center seeks to fulfill a two-fold mission: To serve as a hub in the Philippines and the Asia-Pacific region for research and advocacy, and to form a bridge between the academic community on the one hand, and the society and community it is serving on the other. Its vision is for Filipinos and Asian and Pacific peoples to enjoy an improved way of life, and to live under decent conditions, in an environment worthy of human dignity and respect.

Social Development Research Center
De La Salle University
2401 Taft Ave., Manila 1004 Philippines
Tel +632 524-5349 / 524-5351
Fax +632 524-5351
E-mail sdrc@dlsu.edu.ph
www.dlsu.edu.ph/research/centers/sdrc
www.sdrc.org.ph

Contents

Abstract	i
About the Authors	i
Introduction	1
Hernando de Soto's Claim on Property Rights	2
The Limitations Posed by Absence of Property Rights	3
The Focus of the Study	4
.....	5
.....	7
.....	8
.....	10
.....	12
.....	13

Abstract

Theoretically, land tenure systems should be the over-all composition, structure and processes of providing access and rights in lands for informal settlers. In practice, the land tenure system in the Philippines is limited by the narrow perspective on land distribution or relocation, and does not extend to securing property rights. The discussion is intended to map the reasons why land title distribution in many developing countries has not been signified as a means to capital accumulation and property rights to provide more credibility and reliability to access credit to improve living condition, but is viewed as an end in itself. The review on relevant materials is aimed at identifying and analyzing the significant weight and impact on the improvement in the lives of the poor of security of tenure and awarding of land titles.

About the Authors

MARK ANTHONY M. VELASCO is a Development Studies doctoral student of the Political Science Department of DLSU-Manila, and a Ph.D. research apprentice at the DLSU Social Development Research Center. At SDRC, Mr. Velasco is part of the research teams for the Philippine Business for Education (PBE)-United States Agency for International Development (USAID)/Philippines project "The Higher Education Accountability and Transparency (HEAT) Portal," and the UNILAB Foundation-funded study "From the Margins to the Mainstream of Society: Transforming the Lives of Workers with Exceptionality, their Co-workers, Business, Corporate Practices, Policies and the Workplace". He has also been part of the research team for the DLSU Challenge Grant project of Dr. Alvin Culaba entitled "Micro-Hydro Project in Barangay Mataragan, Malibcong, Abra: An Impact Assessment". Mr. Velasco's contributions have been published in the *Asian Journal of Business and Governance*, *the Asian Journal of Public Policy*, *Luz y Saber*, and *the Junior Philippine Journal of*

Introduction

"The way law stays alive is by remaining in touch with social contracts pieced together among real people on the ground." - Hernando de Soto

The production and consumption of goods and services in one country is conventionally the most popular signifier of economic progress, stagnation or its downfall. Thus, Third World countries are assumed to have a lower or the lowest GDP level, while the First World occupies the highest slots in terms of world ranking. The over-all flow and inflow of products and services is highly considered for the assessment and development of an economic system or the future economic output of the country.

Meaningful economic activities can set the tracks for economic development, which should guarantee that the accumulation of wealth is ensured through capital inflow and generation. Hence, these two factors are imperative in the growth and preservation of a capitalist economy. The World Bank's 2002 World Development Report strongly suggests the same, but also looks into other factors that limit economic growth and development. It argues that the economic mechanism of a nation does not lie outside the framework of its local politics and socio-cultural character.

Capital inflow and capital accumulation are limited to the privileged class of society. They can therefore deprive the majority. A weak political institution that caters to tangled laws, corruption, a biased credit system and ambiguous business registration requirements prevents the poor from participating in the economy and hinders economic development (Islam, 2002). The exclusivist protection of a limited number of property holders in a given country by a legal and political system excludes access among the majority to the possession of properties, protection, and added value to their assets.

Recent violent demonstrations that have occurred in the imperial region of Manila and other urban sectors in the country suggest that the same exclusivist and prejudiced policies exist with respect to property rights and ownership. Informal settlers submit to the "land property rights" of the public and private sector for public or corporate interests. Although they may have stayed on the land they are occupying and, given the timeframe of their stay, may have established "cultural claims" to the area on which their houses are built, this does not provide them with "political and legal rights" to ownership because of the lack of tangible proof—a land title.

Hernando de Soto's Claim on Property Rights

Peruvian economist Hernando de Soto supports the 2002 World Bank's assessment of economic development and future trends among developing nations. He has argued that property rights systems in particular explain why people are poor, and consequently identifies them as the cause of persistent economic stagnation in developing countries. Their lack of land titles and the legal means for the acquisition of real property among the poor deprives them of access to other



realization" of his "economic, social and cultural rights indispensable for his dignity and free development..." and makes it imperative that it should be "through national effort and international co-operation and in accordance with the organization and resources of each State."

Legal policy then should serve the social, cultural as well as economic interest of

iwih Shemremakyoe "obsure troperty aights ind Ind tenre psystem tfa

To contextualize, the study is not only considering relevant institutions but puts premium as well on relevant policies of the government involving property rights for the poor such as urban development, land use policy and policy on relocation of informal settlers.

Driving from the ideas of de Soto, the primary aim of this study is to know if the Philippine government's strategy of giving land titles to the poor in selected urban and rural areas has a significant effect on their capacity to accumulate capital. It may be emphasized that the relevance of the study is that it seeks to determine whether the ideas of de Soto work in the Philippines. Moreover, it will contribute to the limited literature on the effect of giving land titles to the poor. The study also aims to enhance policy directions in strengthening institutions in providing opportunities for the poor to maximize their property rights to improve their quality of living. The notion of property rights will be represented by the variable giving of land titles to the poor, while market opportunities will be represented by their access to the credit market and investment. This representation is made to measure the variables under study.

In adapting the ideas of de Soto in relation to other development scholars, the primordial question the study poses is how does provision of land titles affect informal settlers' property rights and participation in economic activities? An educated assumption to this question is that the provision of land titles increases the perceived assurance of informal settlers of their property, increases their political and economic control over their property, and increases their market capabilities.

Conceptual Discourse and Selected Cases

According to the institutional hypothesis, protection of property rights enhances the incentives to invest. As cited in Zaaruka (2012), North (1990, 1991) suggests that institutions shape the incentive structure that may impede or increase economic activity. Acemoglu et al. (2004) (cited in Asoni 2008) refers to a cluster of institutions that guarantee property rights for a broad section of the population, calling them “institutions of property rights.” Consistent with this notion, government land-titling programs are thought to be critical in improving access to credit among the poor, and wide-scale land-titling has become a popular policy prescription for reducing credit constraints in developing countries (Binswanger *et al.* 1999).

Governments specify the rights, obligations and enforcement mechanisms for titles to assets (Alston 2005; Alston and Mueller 2004). One of the critical roles of the state is to enforce property rights. This full set of rights typically comes with either formal or informal restrictions (Alston 2005). A further impact of state enforcement is that asset holders can reallocate their labor from defending their asset to household or market production (Alston and Mueller 2004). Enforcement by the state typically lowers self-enforcement costs, which raises the value of the asset directly but also via the incentive for increased investment (*Ibid*). Furthermore, Webster and Lai (2003) in consonance with Rodrik et al. (2002) argue that “institutions that protect private property are essential for market activity and economic growth”.

The idea of de Soto, coupled with recent issues and challenges on property rights and the absence of a legal guarantee of the international human rights of informal settlers for property, served to instigate this study. It looks into the relationship between the acquisition of land titles of informal settlers and their concept of security of tenure, property rights and accumulation of capital, as well as their access to credit market opportunities to further advance their economic as well as socio-cultural development.

The de Soto claim can be tested by the study primarily to add to the meagre amount of literature conducted on the significance of land titles to the concept of property and property rights to the poor. The study further looks into the validity of de Soto's theories with respect to how the poor assess their security of tenure, the accumulation of wealth and capital, and economic and socio-cultural well-being. The study also aims to provide new insights into the issue of property rights in the Philippines, and to help policymakers extend and strengthen the legal framework on property rights and holdings in the country to benefit the poor and marginalized sectors of society.

Security of tenure will be treated as the “acquisition of land titles”; property rights is the settlers’ perceived “political and economic control” over their property; and capital accumulation is their access to the “credit market”. These concepts will make the quantitative and qualitative measurement of the study reliable.

The importance of the institution of property rights cannot be neglected in the course of accumulating capital and economic growth in general. For de Soto, property rights can be used as collateral to accumulate monetary resources, so that the poor can start engaging in economic

determine or even influence the farmers to invest in agricultural lands if they possessed land titles. Without land titles, there would be greater risk of eviction, or fewer chances that the farmers could harvest the fruit of their labor in the land they cultivated.

Two research locales were chosen for this study. One is Parana where farmers were given land titles, and the other was Para where farmers were not given land titles. The study employed a survey questionnaire in trying to gather data to explain the relationships among the variables under study. The results were that first, farmers who were given land titles tended to invest more in agricultural lands than those who did not have land titles. Second, the value of land in Parana increased, while the value of land in Para did not. The authors explained that because the farmers cultivated the land and land titles exist, the value of the land increased. Overall, the farmers in Parana were able to increase their capacity to acquire more resources that can be used in further investing in cultivating the land. On the other hand, farmers in Para did not have the capacity to increase their resources, and did not further invest in cultivating agricultural lands because of the risk at hand.

Another study on the effect of land titling was conducted by Galiani and Schargrotsky (2005) in Buenos Aires. The study aimed to test the framework advanced by Hernando de Soto on the property rights affecting capital accumulation. In the study, the variable "property rights" is represented by the giving of land titles to the poor, while "capital accumulation" is represented by housing investment, household size, school performance and performance in credit and labor markets. The study was a natural experiment on those land dwellers in San Francisco Solano, County of Quilmas in the Province of Buenos Aires in Argentina. The survey respondents were those dwellers that were given land titles and those dwellers that were not yet given titles. The data gathered were treated with econometric methods of regression.

The results of the study can be summarized as follows. First, dwellers that were given land titles tend to invest in building their houses with concrete materials, while those who were not given titles tend to maintain shanty homes made of temporary materials. Second, household size is smaller and limited to immediate family members among those who possess land titles, while household size of those who do not have land titles became bigger as relatives tended to share occupancy of the house. Third, the provision of land titles tended to increase the performance of children in school, while children's school performance in families without land titles was declining. Fourth, giving of land titles had no effect on access to credit and to the labor market.

Theoretical Framework

In today's developing world, a pervasive manifestation of feeble property rights are the millions of people living in urban dwellings without possessing formal titles of the plots of land they occupy (Deininger, 2003).

Hernando de Soto (cited in Thanh, 2002) in his seminal work, *The Mystery of Capital*, explains significant theoretical assumptions in the relationship between property rights and capital accumulation. de Soto (cited in Woodruff, 2001) argues that in this age of capitalism, capital is the most essential requirement needed for the economy to prosper. However, in most developing countries, capital is "dead" due to the absence of a property rights system. In his studies of the developing countries in Asia, de Soto (cited in Thanh, 2002) has found that there are huge tracts of land that do not have titles. Hence, those lands without titles cannot be converted into assets or as collateral in order to borrow capital in financial institutions. In addition, investors are wary about investing in lands that do not have security of ownership, since the risk of arbitrary claim is greater.

de Soto (cited in Thanh, 2002) made a critical assumption in advancing an explanation on how property rights in the form of land titles can create impacts on social and economic conditions of the informal settlers. Operationally, he argued that the idea of "property rights" is represented by government's power to give land titles to the poor. In effect, the informal settlers create perception of control over the land titles provided to them. Moreover, "market opportunities" include both access to credit and investment; and "economic and social well-being" includes the living conditions of the informal settlers and access to basic services.

de Soto argues on the effect of property rights to the poor: they result in increased investments and access to credit. He assumes that "the reason market economies have triumphed in rich nations and sputtered in much of the rest of the world is [attributed to those] assets in rich nations that have been integrated into one formal representational system" (cited in Thanh, 2002). In this assumption, de Soto blames developing countries, especially their governments, for their lack of initiative in developing a formal representational system on assets. The formal system being referred to is the institutionalization of property rights systems, particularly land titles.

Another assumption advanced by de Soto is that "Capital is born in a contract that allows the holder to disengage the resource from its material constraint and focus more on its potential"

ensure protection and reduce uncertainty in transactions. Land titles ensure the protection of institutions and persons involved in the transaction, since there is proof that a certain land area belongs to the holder. They empower the holder or the owner of the property to do whatever he

References

- Acemoglu, D., Johnson, S. and Robinson, J. (2001). Colonial Origins of Comparative Development: An Empirical Investigation. *American Economic Review* 91(5): 1369-1401.
- Adams, M. et al. (1999). *Land Tenure and Economic Development in Rural South Africa: Constraints and Opportunities*. London: Overseas Development Institute. Working Paper 125.
- Ali, M. & Sulaiman, M. (2006). The Causes and Consequences of the Informal Settlements in Zanzibar. Proceedings of the XXIII FIG Congress, Shaping the Change. Munich, Germany.
- Agresti, A. (2002). Logistic Regression. Online. Accessed from: <http://userwww.sfsu.edu/~efc/classes/biol710/logistic/logisticreg.htm>. Accessed on 12 December 2011.
- Alston, L. (2005). *Institutions, Property Rights and Their Impact on the Poor*. University of Colorado.
- Alston, L. et al. (1996). The Determinants of Property Rights: Land Titles on the Brazilian Frontier. *Journal of Law, Economics and Organization*. Oxford: Oxford University Press.
- Alston, Lee J. & Mueller B. (2004). Property Rights and the State. In Claude Menard and Mary M. Shirley, eds. *Handbook of New Institutional Economics*. Norwell MA: Kluwer Academic Publishers, 2004.
- Asoni, A. (2008). *Protection of Property Rights and Growth as Political Equilibria*. Stockholm: Research Institute of Industrial Economics.
- Babbie, E. (2010). *The Practice of Social Research*. (12th Ed). United States of America: Wadsworth, Cengage Learning.
- Besley, Y. (1995). Property Rights and Investment Incentives: Theory and Evidence from Ghana. *The Journal of Political Economy* 103(5): 903-37.
- De Soto, H. (2010). *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. London: Transworld.
- De Soto, H. (2000). *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York: Basic Books.
- Deininger, K. (2003). *Land policies for growth and poverty reduction: Key issues and challenges ahead*. UN, FIG, PC IDEA Inter-regional Special Forum on The Building of Land Information Policies in the Americas. Aguascalientes, Mexico 26-27 October 2004.

De Long, J. B. & A. Shleifer, A. (1993). Princes and Merchants: European City Growth before the Industrial Revolution. *Journal of Law & Economics* 36(2): 671-702.

Di Tella, R. (2004). Property Rights and Beliefs: Evidence from the Allocation of Land Titles to Squatters. Ronald Coase Institute. Working Paper No. 5.

Feder, Gershon, Tongroj Onchan, Yongyuth Chalamwong, & Chira Hongladrarom. (1988) Land Policies and Farm Productivity in Thailand. Baltimore: Johns Hopkins University Press.

Field, E. & Torero, M. (2006).

North, D. C. (1990). *Institutions, Institutional Change and Economic Performance*. Cambridge, UK: Cambridge University Press.

North, D. C. & Thomas, R. P. (1973). *The Rise of the Western World*. Cambridge, UK: Cambridge University Press.

Payne, G., Alain, D.-L., & Carole, R. (2007). Social and economic impacts of land titling programmes in urban and peri-urban areas: A review of the literature. *World Bank Urban Research Symposium*.

Plant, Roger. (1993). Land Rights in Human Rights and Development: Introducing a New ICJ Initiative. *The ICJ Review* 51: 10-30.

Rodrik, D. et al. (2002). *Institutions Rule: The Primacy of Institutions Over Geography and Integration in Economic Development*. Cambridge: National Bureau of Economic Research. Working Paper 9305.

Rosenberg, M. J. (2002). The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else by Hernando de Soto. *International Affairs (Royal Institute of International Affairs 1944-)*, 174.

Schirmer, S. (2007). Deriving development from de Soto: A Vision for Africa. In "Are Hernando de Soto's views appropriate to South Africa?" Graduate School of Public and Development Management, Occasional Paper Series 1, University of the Witwatersrand, Johannesburg, South Africa.

Soy, S. (1997). *The case study as a research method*. Unpublished paper, University of Texas at Austin.

Sawadogo, J. & Stamm, V. (2000). Local Perceptions of Indigenous Land Tenure Systems: Views of Peasants, Women and Dignitaries in a Rural Province of Burkina Faso. *The Journal of Modern African Studies*, Vol. 38 No. 2.

Thanh, N. (2002). *The Mystery of Capital*. Fulbright Economics Teaching Program, Economics Executive Education Program.

Thomas, J. (2002). *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else by Hernando de Soto*. Cambridge, London: Cambridge University Press

Tabachnick, B. & Fidell, L. (2007). *Using Multivariate Statistics*. United States of America: Pearson Education, Inc. 2007i ecutUg6 rg531.8i ecutUg6 f*ET2.7311Tj50 TD/Introd5421.945 42145050 TD

Van den Berg, H. (2001). Chapters 11-12. *Economic Growth and Development*. India: McGraw-Hill Education.

Webster, C. & Lai, W. (2003). *Property Rights, Planning and Markets: Managing Spontaneous Cities*. USA: Edward Elgar.

Woodruff, C. (2001). Review: The Mystery of Capital. *Journal of Economic Literature*. American Economic Association.

Zaaruka, B. (2012). *Institutional dynamics and capital accumulation: Evidence from Namibia and Tanzania*. *Economic Research Southern Africa (ERSA)*.

The Occasional Papers Series was initiated at De La Salle University in 1975 and has featured topics