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**SECURITY OF TENURE,
CAPITAL ACCUMULATION
AND QUALITY OF LIFE
FOR POVERTY ALLEVIATION**

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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.

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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 opportunities to increase and accumulate more wealth (Soto 2000; Rosenberg 2002).

De Soto made a very controversial claim that 9.3 trillion US dollars' worth of property is not legally held by the poor in developing nations. The bulk of this property, he explains, is held informally as they are treated as "informal settlers" who could otherwise initiate credit, spending, entrepreneurship and stimulate economic development (Rosenberg 2002). This paper utilizes the UNDP's definition of "poor" as "being denied of choices and opportunities... not having the land on which to grow food or a job to earn a living, not having access to credit. It means insecurity... living on marginal or fragile environments, without access to clean water or sanitation." For de Soto, the "world's poor have houses—but not titles to property; crops—but not deeds reflecting ownership; business enterprises—but not articles of incorporation." These "informal properties" are firmly considered by de Soto and his team to be "dormant capital" held back by existing property law systems of developing countries. Informal settlers therefore do not have "direct political control" over their properties (Rosenberg 2002; Thomas 2002).

The assertion of de Soto and his team is welcomed by supporters and critics advocating the framework of new institutional economics and development. Likewise, the assumptions in the book are highly acclaimed as a new perspective in understanding capitalism and its driven development. They look differently into the importance of the household sector, which has shifted from mere consumers of goods and services and providers of labor and skills to a more pro-active economic participant. The members of the household are thus upheld as a major component in adding value to properties so that accumulation of wealth can be achieved. This argument cites the power of the household to take "direct political and economic control" over the possession of property rights through instruments such as land titles. In effect, the awarding of land titles to the poor secures tenure and extends participation in economic activities.

The Limitations Posed by Absence of Property Rights

If the poor are denied property rights, the barriers are more likely to overshadow the life condition of the households. People engaged in informal settling are excluded from participating in economic activities that thus limit capital accumulation, investments, and potential improvement of living conditions, among others. In addition, these economic barriers to access of property ultimately exclude the poor in their right to security of tenure. When property rights are not secure, claimants may also invest too much or invest prematurely in hopes of strengthening their claim to the asset (Alston and Mueller 2005).

“Insecure tenure has multiple ramifications for poverty. Lack of tenure hinders most attempts to improve shelter conditions for the urban poor, undermines long-term planning and distorts prices for land and services. It has a direct impact on investment at the settlement level and reinforces poverty and social exclusion...” (Sclar and Garau, 2003:57 as cited in Payne 2005). The weak institution and enforcement of property rights is a key determinant in setting an economic trajectory (North and Thomas, 1973; North, 1981; De Long and Shleifer, 1993; Johnson et al.,2002). Alston and Mueller (2005) state that insecure property rights reduces the likelihood that the asset will be in the hands of the person who values it the most, thereby limiting the maximization of acquiring trade gains. The absence of property rights bars the economic participation of the poor segment of the population that comprises the majority.

For most of the poor in developing countries, land is the primary means for generating a livelihood and a main vehicle for investing, accumulating wealth, and transferring it between generations (Deininger, 2005). There is a need to address the issue of property holdings, protection and appraisal for a greater number of people in a given economy, to ensure the generation of more capital and to strengthen weak financial systems. This would then fuel the growth and development of a capitalist system (Islam, 2002; Rosenberg 2002).

Article 17 of the Universal Declaration of Human Rights Land Rights promotes the right of each individual to property. It clearly states in clause number 1 that “everyone has the right to own property alone as well as in association with others,” and reiterates in clause number 2 that “...no one shall be arbitrarily deprived of his property.” Although there is no assertion that such rights are established in order for the individual to be empowered to participate in economic development, these are supported by clause number 22 which states that each individual “is entitled to

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 individuals, for them to acquire property, secure the property and promote their right to dignity and free development and security of tenure. Such policy “must be seen as a necessary precondition for the realization of other internationally protected human rights” (Plant, 1993).

However, such international guarantee is limited by the legal system of the country, in which there may be obscure property rights and land tenure system favoring the privileged class, and prejudice to the poor and other marginalized sectors comprising the majority of the society (Soto, 2000).

The Focus of the Study

The ideas of de Soto on the relationship between property rights, in the form of land titles, and capital accumulation to engage in enterprise or economic activity, through access of the poor to the credit market by using their land titles as collateral, will be examined in this study. This main argument espoused by de Soto will preliminarily serve as a foundational framework. The effect of these market opportunities or the absence thereof on their living conditions will also be given attention. To better understand the usage of land titles among informal settler beneficiaries, the study will further explore other factors and reasons on how the poor utilize the titles awarded to them. These factors may range from behavior, activities concerning the land title, outcomes and opportunities among those poor that were given possession of a piece of land.

At the institutional level, particular attention is also given to the dynamism of inter-government cooperation in the provision of land titles among the poor. The present Philippine government strategy emphasizes that the National Housing Authority (NHA) will lead in the assessment of areas that will qualify as possible beneficiaries of land titles with houses. This government agency will be augmented by resources and support on legal procedures and social concerns from the Department of the Interior and Local Government, Department of Social Welfare and Development, Department of Environment and Natural Resources and the Local Government Unit in the target area.

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

Van den Berg (2001) clearly defines institutions as “laws, social norms, traditions, religious beliefs and other established rules of behavior that provide the incentives for rational people to react to.” On one hand, North (1994) perceives institutions as the “formal rules, informal norms and enforcement characteristics of both, and it is the admixture of rules, norms and enforcement characteristics that determines economic performance”. Chris Webster and Lawrence Lai (2003) meanwhile provide a definition of property rights and institutions by saying that a “property right is defined as the right to benefit from a source by use, income or disposal and an institution is defined as a system of rules and sanctions”.

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 activities. Van den Berg, on one hand, says that the institution of property rights can provide security for the individual against risk or threat from others. However, the most crucial concept related to the ideas of de Soto is that of Webster and Lai in saying that the institution of property rights provides an opportunity for individuals to engage in market activity and contribute to economic growth.

Therefore, the institution of property rights, in the form of land titles, can provide the poor with the opportunity to participate in market activities, as well as security from threat and risk. The primary importance of providing the poor with land titles is to alleviate them from poverty and social threats.

Philippine Land Reform

In the Philippines, history has determined the distribution of land titles and rights. In 1988, President Corazon Aquino introduced a Comprehensive Agrarian Reform Program for land redistribution. However, while there has been progress over the thirteen years of the Program's implementation, a series of difficulties involving the implementation schedule, exemptions and corruption, a faulty and complex land valuation system, weak penalties for non-compliance, and a lack of financial support has slowed down and weakened the program (Vargas 2003). In essence, land distribution has tended to become concentrated on in the landed elite, and large masses of peasants have been displaced and become landless (Ibid).

Land reform has been in the national agenda since the 20th century, across various administration stints. In 2000, studies were conducted to assess the impacts of the CARP. These studies on the effect of agrarian reform identified both the gains and losses of the program. Reyes (2002) reported that the Agrarian Reform Beneficiaries (ARBs) tend to have higher incomes and

lower poverty incidence compared to non-ARBs. The ARBs also tend to be better off in terms of the other indicators of well-being compared to non-ARBs. They have better access to safe water and sanitation facilities. Members of ARB households are found to have higher educational attainment than members of non-ARB households.

However there is concern for the unintended impact of CARP on non-beneficiaries, especially the farmers that remain landless and poor. Based on a small survey of five villages, the ability of the poor and the landless to gain access to land through established markets appears to have declined over the course of the Program period. A study completed by the World Bank in 2001 concluded that poverty is highest in the agriculture sector, and that this sector also experiences the slowest poverty reduction.

Reforms were also administered among the growing population of informal settlers in urban areas. The Urban Rural Balance Incorporated (URBI) reported a comparison of affected families before and after the resettlement of the informal settlers within the 10-meter easement area of the Pasig River in Pasig City. Compared to year 2000, there were more employed members of the relocated families in 2005. The notable increase in the self-employed category was attributed to the participation of relocatees in training programs and livelihood seminars. As regards family income, the number of families with a monthly income of less than PhP 3,000 decreased, so that more families are within the PhP 7,000 to PhP 10,000 income range.

Another case involves that of the In-City Resettlement Program of Squatters of Marikina City. The program relocated 30,015 household beneficiaries, representing about 40% of the total 120,000 people residing in 114 depressed areas of the city. Baac and Librea (2006) state that the program provided legal security of tenure for settlers as well as other allied services such as livelihood programs and trainings, potable tap water and electrical connections, solid waste disposal, health and sanitation, garbage collection, and telephone lines.

Selected Studies in Other Countries

Alston et al. (1996) came up with an empirical study on the effects that the awarding of land titles by the government has had on land value and agricultural investments of farmers in Brazil. The study aimed to test if the government provision of land had led to opportunities for these farmers to accumulate more capital. Land as one of the factors of production was assumed to

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”

(cited in Thanh, 2002). Capital is seen to possess much potential since it is one of the factors of production in economic activities. A concrete manifestation of such potential may come in the form of starting businesses and livelihood. In most developing countries, economic activity is slow in progress because of the lack or absence of capital (Sawadogo & Stamm, 2000). Leblang (1996) emphasizes that the very source of capital in developing countries, where there are limited business and investment opportunities, is in the possession of property rights referring to a piece of land.

The absence of land entitlement constitutes a severe limitation for the poor. Apart from its investment effects, the lack of formal titles impedes the use of land as collateral to access the credit markets (Feder et al., 1988). de Soto's third assumption is that having land titles implies "transforming [the] assets from a less accessible condition to a more accessible one" (cited in Thanh, 2002).

The fourth assumption according to de Soto (cited in Thanh, 2002) is that having property rights on assets like a land title "mak[e] assets fungible, enforcing ownership and making information easily accessible, [such that] assets will move freely between people". By having a land title, holders can easily transfer property to another person or institution in exchange for monetary value. This scenario fosters the productive use of land as opposed to those lands that cannot be used in economic activities because of the absence of titles. The principal argument is that formal property titles encourage the use of land as collateral by lowering the risk of loss, the costs involved in verifying ownership, and the costs of foreclosure in the case of default, thereby reducing the effective leverage ratio and increasing the net collateral value of land (Field & Torero 2006).

Possessing a land title can transform assets in a productive activity. This is because with the title, the land can be used as collateral in financial institutions, or investors can be allowed to lease or buy it. Field and Torero (2006) also argue that the titled property owners may be offered more credit because of the household's higher expected wealth from the reduced risk of expropriation. Hence, the land title can be converted into monetary resources that enable the holder to use it to engage in economic activity.

The last assumption made by de Soto (cited in Thanh, 2002) is that "through laws, deeds, contracts, [there can be] security of transactions." The ultimate end of having a land title is to

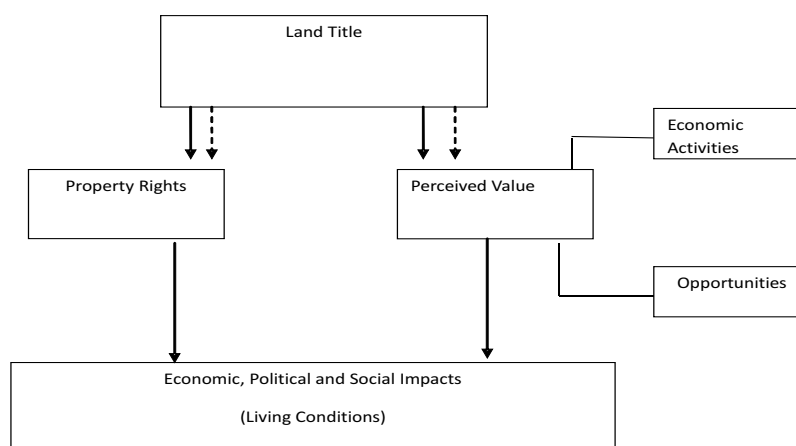
ensure protection and reduce uncertainty in transactions. Land titles ensure the protection of institutions and persons involved in the transaction, since there is proof that a certain land area belongs to the holder. They empower the holder or the owner of the property to do whatever he deems appropriate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

Land titles also affect the transferability of the parcels of property (Besley, 1995), making investments in untitled parcels highly illiquid. In addition, the absence of formal titles deprives poor families of the possibility of having a valuable insurance and savings tool that could provide protection during bad times and retirement, forcing them instead to rely on extended family members and offspring as insurance mechanisms.

In the assumptions narrated by de Soto, the possession of property rights through land titles is the key to unlocking the mystery of capital. It is through land titles that capital can be accumulated and used in productive activities. Hence, the assertions of de Soto will be tested in the Philippines to see if they are still applicable in the country.

Illustrating the Framework

From the point of view of Hernando de Soto, the graphical framework of understanding shown below illustrates the effects of providing informal settlers with land titles. It is expected that through the act of land titling, the beneficiaries may vary in their perception of their property value. This perceived value affects their utilization of opportunities and participation in market activities. Land titles also affect how the informal settlers perceive their control over their property. Amalgamation of these factors affects the living conditions of informal settlers, contributing to the land entitlement's economic, political and social impacts.



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