

RECONCILING CADASTRAL RECORDS IN A DUAL LAND REGISTRATION SYSTEM IN GHANA

Collins Fosu
KNUST Kumasi Ghana

Francis W. Derby
Penn State University, USA



Overview

- ☞ Introduction
- ☞ Land registration systems in Ghana
- ☞ Problems with dual registration system
- ☞ Reconciling records from the two systems
- ☞ Recommendations
- ☞ Conclusion



Introduction

Traditional Land Ownerships in Ghana

- ☞ Stool lands
- ☞ Skin lands
- ☞ Family lands

Allocation was the responsibility of chiefs,
traditional leaders, elders of clans, tribes and
families



Origins of land records in Ghana

Pre-Colonial Era

- ☞ Customary land tenure system
 - Allodial titles
 - Customary freehold
 - Leases
 - Lesser rights



Origins of land records in Ghana

- ☞ Pre-independence: Colonial influence
 - Deed Registration System
- ☞ Post-independence
 - 1962 – Deed Registration System legalized
 - 1986 – Land Title Registration System was adopted

A Duality of the land registration system came into effects
in 1986.



Legal Framework for Registration

Legal Instruments created in 1962:

- ☞ Land Registry Act (Act 122)
- ☞ Administration of Lands Act (Act 123)
- ☞ State lands Act (Act 125)
- ☞ Survey Act (Act 127)

The main objectives of these instruments is to
transfer the land management responsibilities from
the customary leaders to the central government.



Salient Features of the Legal instruments

Land Registry Act:

- The state registers the transaction
- Requires a description of the property as an attachment to the deed.
- The deed serves as a record of a particular transaction
- It is an evidence of the agreement
- Evidence of the recorded transaction does not in itself establish, nor acknowledge legality of the transaction.



Salient Features of the Legal instruments

Administration of Lands Act:

- Regulate land registration and land related transactions in Ghana.
- Empowered the government to compulsorily acquire (where necessary), any land and vest it in the state.

State Lands Act:

- Monitor and regulate the use of lands that have been acquired by the state



Salient Features of the Legal instruments

Land Survey Act:

- Established the requirements for land surveying activities in the country.
- Empowered the registrar to use his/her discretion as to the quality of the attached plan
- Did not require specific reference to permanent monuments.
- Did not require any reference to a geodetic reference framework.



Effects of the Legal instruments

- Land Administration and state Lands Acts were designed to transfer land management activities from the customary leaders to the state.
- The Land registry and Land Survey Acts gave credence to the deed registration system.
- The customary land tenure system coexisted with the deed registration system.



Problems with the Deed Registration System

- Recording system is replete with documents supported by sketches, plans, and maps of varying accuracies
- Because registration was not mandatory, only a small percentage of transactions have been recorded.
- Fraudulent transactions have been recorded
- The court system have been clogged with cases involving fraudulent transactions in land



Land Title Registration Act

Established in 1986

- To remove the deficiencies of the deed registration system
- Avoid fraudulent activities by unscrupulous surveyors
- Certify ownership
- Facilitate proof of title
- Bring sanity into land delivery services
- Created the office of the Land Title Registry



Title registration requirements

- ☞ Certified cadastral plans as attachments to documents
 - Plans must be signed by a licensed or a government surveyor.
 - Must be checked by a representative of the Director of surveys
- ☞ Copies of documents must be submitted to the lands commission for processing
 - Lands commission serves as the official repository of all land and related records



Reconciling the Two Registers

Associated problems:

- ☞ Legal
 - Appointment of the Director of surveys
 - Qualifications and authority of the Director's position
 - Establishment of a board of surveys to promote and regulate matters affecting land surveying
 - An oversight institution to regulate the conduct of professional surveyors



Reconciling the Two Registers

Associated problems:

- ☞ Administrative
 - Absence of a master plan of sufficient scientific accuracy
 - Lack of supervisory control by the Director of surveys over licensed surveyors
 - Insufficient number of geodetic control networks
 - Undue delays at the survey department during the processing of cadastral plans from regions
 - Inability of administrators to enforce the provision of the legislative instrument (LI 1444)



Reconciling the Two Registers

Associated problems:

- ☞ Technical
 - Inaccuracies in plans produced under the Deed registration system
 - Lack of permanent references on the ground
 - Incompatibility between old cadastral plans and recently surveyed data
 - Parcels that have been sold to multiple purchasers resulting in multiple owners for a single parcel
 - Overlapping of parcels due to bad surveying practices



Recommendations

- ☞ Land transaction should not be valid until the transaction has been recorded in the register
- ☞ Registration should be checked for correctness by registrar
- ☞ Registration should only be carried out after proper survey
 - All legal or cadastral surveys should be tied to a geodetic control network



Recommendation

- ☞ Permanent monuments should be placed at the boundaries before survey of the parcel
- ☞ Survey should be checked by the Director of surveys or his representative
- ☞ Registration system should provide limited protection to the registered owner



Conclusions

- ☞ Inconsistent records have arisen as a result of legal loopholes, administrative lapses, and technical shortcomings
- ☞ The following will remove errors in existing records and allow effective reconciliation of the records within the two systems
 - All deeds presented for registration should be related to parcels on the ground
 - Geodetic control network should be densified, especially in the cities
 - Mapping of varying scales should be expedited to provide the basis for effective land development



The End

Thank You

