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PAPUA NEW GUINEA

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CUSTOMARY LAND RELEASE TO SETTLERS AND ITS IMPACT ON LANDOWNERS AT TAURAMA VALLEY, PORT MORESBY

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Volume 15, Issue 16

www.pngri.org

Key Points

- Customary landowners at Taurama began releasing land to migrants based on relational grounds to settle on their land. As the process gained momentum, non-relational market transactions occurred.
- It is vital to identify key stakeholders and closely engage with them to buy into customary land development projects and carry them along the process from start to finish.
- Informal customary land transactions have impact the dynamics of relationships within and between families regarding the release of land and the distribution of earned income.
- Informal agreements are ambiguous and lack clarity on the terms and conditions of settlement and this leads to uncertainty, misunderstanding and conflicts as both groups lay claims of legitimacy to land.
- Taurama's narrative highlights the importance of making widely available information on Voluntary Customary Land Registration (VCLR) and Incorporated Land Groups (ILGs) in a form that is easy to understand and widely disseminated.
- Intervention to bring a long-term solution to the Taurama case needs to engage with both landowners and migrants now that major investments have been made on the land.

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October 2022



CUSTOMARY LAND RELEASE TO SETTLERS AND ITS IMPACT ON LANDOWNERS AT TAURAMA VALLEY, PORT MORESBY

By Elizabeth Kopel

Land in Papua New Guinea (PNG) is mostly customary owned (95%) with freehold land accounting for a mere 5 percent of all land (Koczberski et al., 2017; Chand and Yala, 2012). With the National Capital District's population growth at more than 3 percent every 10 years since Independence (PNG NSO, 2013) alienated for housing and urban development is almost exhausted.

An influx of inwards migration combined with natural population growth have seen rapid growth of urban settlements spilling over into peri-urban customary-owned land in Port Moresby. This process has been fueled by the shortage of affordable residential housing. This, in effect, provides substantial opportunities for customary landowners to benefit from releasing their land for planned development. While unplanned settlements on State or customary land is not permitted, there is growing evidence of the establishment of diverse informal arrangements with customary landowners whereby migrants employ creative strategies to obtain and maintain access to land for housing and economic activities (Chand and Yala, 2012; Numbasa and Koczberski, 2012).

In 2012, the government embarked on planning major impact project, the 'Taurama urbanisation pilot project', to be implemented on customary land at Taurama Valley on the outskirts of Port Moresby. The Office of Urbanization and the National Capital District Commission (NCDC) were to oversee the development of Taurama as a suburb with basic services and amenities under a partnership arrangement between the customary landowners and developers. However, that project was abandoned when landowners disposed land informally to settlers before the project could be implemented.

This paper is informed by evidence of a study conducted on understanding the dynamics of informal customary land transactions between landowners and settlers at Taurama Valley. The article analyses factors that contributed to landowners releasing their land informally and its effects on landowners and their families. It concludes with lessons for similar efforts to facilitate development of customary land and policy recommendations.

Why have customary landowners informally released their land to settlers?

Several factors led to the release of land by customary landowners. These are briefly discussed below.

Lack of engagement with landowners: Stakeholder engagement with landowners who have the decision-making authority was so critical in the conception, planning and implementation of the Urbanization Pilot Project. Yet, information regarding the project did not reach all landowners, to get them on board and maintain their support throughout the life of the project. Max Kep, Executive Director of the Office of Urbanization at that time confirmed that part of the failure was related to the misconception that customary clan landowners exist as an active entity over clan land and its management (Kep, 2018). In Taurama, it is the family unit that usually has a long-standing use of the land and exercises greater authority over its tenure and not the clan.

Save customary land from alienation: Lack of information, coupled with the sight of surveyors at the valley reminded landowners of the historical experiences of land alienation by the colonial administration from their forefathers. Much of the land on which the current suburbs of Boroko, Korobosea, Gordons, 5 Mile and 6 Mile are located has been alienated without any payment. Landowners feared that history might repeat itself, that their land would be alienated.

To prevent the State from taking over the land, it had to be populated. Therefore, some landowners at Mahuru, Korobosea and Kirakira villages invited settlers who were known to them to move in and live with them at nominal rates of rent or one-off payments. Under these arrangements settlers become an extended part of the landowner's family and participate in socio-cultural activities and maintain social relationships. The formal option of Incorporated Land Groups (ILGs) and Voluntary Customary Land Registration (VCLR) was not utilised due to lack of awareness. Also, these are complex and lengthy processes and landowners needed to act quickly.

As the process of informal settlement gained momentum, strangers came in paying much higher amounts to settle and stranger deals mirror market transactions. This had a domino effect as more and more landowners leased/sold their land and before long, the entire valley was gone and only a minority of landowners opted to form ILGs.

This exercise was not in any way meant to be permanent sale of customary land. Landowners chose the option they thought, would prevent State alienation and enable them to benefit from the increased demand for land while maintaining ownership and control. This point was well summarised by Koczberski et al. (2017) that the key principle of informal transactions is landowners are not seeking to change customary land tenure principles. They look for options that will enable them to benefit from the increased demand for land without losing ownership and control of land, within a framework that stresses the relational dimensions of transactions with outsiders.

Money for meeting livelihood needs: Increasing demand for land presented an ideal opportunity for landowners to earn an income. Sale or lease of land offered an attractive opportunity for landowners to make quick money to finance the cost of maintaining livelihoods. While landowners benefited from payments at the time, they have spent the money, land is out of their hands and all they have left are the new neighbours.

What has been the impact of informal customary land transactions on landowners and their families?

Informal customary land transactions have affected the

dynamics within and between landowner households and extended families. While they earn an income from the land, it is spent, but the transactions have long-term implications on ownership rights of current landowners as well as that of future generations.

Tensions and conflicts within and between families

Transactions have contributed to tensions and conflicts in some families. Disputes and arguments occur over parcels of land that are disposed regarding who engages in the deals, how agreements are made and the distribution of income from land deals. Feelings of anger and resentment are serious in situations where land is disposed of without consultation with and the consent of the rest of the family. In other cases, the proceeds of land sale are not shared in a transparent and equitable way, and this also becomes a source of ongoing tension and conflict among landowner families.

Conflicts with settlers for double selling

There are instances where respective landowners or different family members sell the same plot to multiple settlers, not to mention instances where 'ghost' landowners take money from unsuspecting settlers. When multiple settlers claim the same plot of land, conflicts emerge between landowners and claiming settlers or between settlers themselves. Occasionally, arguments escalate to fights between claiming settlers or between settlers and landowners. In such cases, settlers would demand for a refund or a new plot to be allocated.

Ambiguities around terms and conditions of settlement

A common source of conflicts with informal land agreements relates to ambiguities surrounding the terms and conditions of settlement. There is no documentation about land boundaries, who the land is leased to, what it can be used for, for how long, at what price, payment terms and what happens after the lease is up. Koczberski et al. (2013) also found uncertainties which have led to disagreements and disputes between landowners and migrants in the oil palm frontier. These ambiguities lead to problems for landowners and settlers.

Diverging understanding of transactions between landowners and settlers

The ambiguous nature of agreements complicate matters

as the two groups' understanding of the transactions are at polar ends. Landowners often do not explicitly state that they are not selling ownership rights prior to settlement. Therefore, while customary landowners maintain that they have ownership rights, settlers assume that they have acquired ownership rights and are fixated on making major investments to improve the land through investment of lifetime earnings in housing and businesses. This remains a major point of future contention between the two groups.

Settlers selling land

There have been instances where settlers have sold or tried to sell land. Landowners have mentioned of some settlers attempting to alienate land. More land is bound to change hands between the original and third-party settlers without the knowledge of landowners, who currently have some level of informal control over who takes up residency at Taurama and controls on what they can and can't do on the land. For instance, controls on sub-letting and get prior permission and pay extra to establish business activities.

Hard to reclaim land from settlers

Any attempt by landowners to reclaim land from settlers will certainly be met with objection by settlers as they intend to bequeath property and other assets to their children. The impact of informality will extend well beyond the current landowners and migrants and affect children and grandchildren of both parties, who will inevitably be caught in disputes over land and property. The intention to protect land from the State led them to open it up informally to settlers and earn some income while maintaining ownership rights, but it has brought more challenges than solutions.

Conclusion

Opening up Taurama informally to settlers was due to a misunderstanding of the purpose of the urbanisation project from lack of engagement and consultation with landowners who own and control land. This shows the need to better understand the landownership system in respective localities, identify key stakeholders, consult, and closely engage with them to buy into the project and carry them along the project process from inception to completion.

Evidence from previous research (Numbasa and

Koczberki, 2012) shows that access to land based on relational terms and informal agreements works for a limited time and are not secure in the long term. This means that investments made on customary land without any formal documentation are not secure. This can be a source of major conflict for future generations of landowner and migrant children. With a general lack of awareness and the ineffectiveness of existing government policy and intervention efforts to facilitate the release of customary land for development through Voluntary Customary Land Registration (VCLR), only a minority of landowners assumed this option. Informal customary land transactions have affected the dynamics of relationships within and between families regarding decision-making over disposed land as well as the distribution of earned cash. Informal land agreements are marked by ambiguities and uncertainties, lacking clarity on the terms and conditions of settlement and this leaves room for misinterpretation. Landowners now realise the potential risks of their situation as settlers also lay claims of legitimacy to the land because of developments on it.

Any intervention to bring a long-term solution to the Taurama case will be more challenging as it needs to engage with not just landowners but also migrants now that they have made major investments on the land. It may be easy to begin a conversation around areas that both groups agree on the need for intervention such as access basic infrastructure and utility services and long-term security of access and ownership of land and property.

Recommendations

The informal transactions that transpired in Taurama are contrary to government policy. Information on existing policy, systems and processes regarding customary land mobilisation for development through the formation of Incorporated Land Groups and registration of customary land needs to be prepared and packaged in a form and using easy to understand medium and widely disseminated. The process of implementation needs to be streamlined and made more user friendly and effective for the common person to understand and use.

Contrary to initial assumptions, landowners now fear that they will lose control and ownership of their land with migrants setting up permanent homes and

businesses. Any intervention whether it is going down the route of undertaking VCLR and ILGs or adopting another model would need to consider and balance the interests of both landowners and migrants. The State needs to facilitate a process for them to work with settlers to maintain ownership and collect ongoing rental dues from settlers.

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