A brief History of Land Rights in KwaZulu-Natal

Chris Williams-Wynn
Surveyor-General: Eastern Cape

East London
Republic of South Africa
May 2016
350 years ago…

• Europe and the East
  • Great libraries and formal land records
  • Naval fleets, cavalry, military superiority
  • Gunpowder, rifles, pistols and cannons

• KwaZulu-Natal
  • Hunter-gatherers
  • Huge herds of game, elephants
  • Burial grounds, waste middens, rock art
  • Not even the most primitive of writing
18th Century...

- Herders and Tillers: Nguni Clans
  - Migrated south – in search of water and grazing for their increasing herds

- Displaced or assimilated earlier peoples

- Primarily herders – strong culture:
  - Law of persons
  - Socially well-organised
  - Wealth was cattle
  - Tilling the soil was women’s work

- No written documents
200 years ago…

- King Shaka and successor Dingane
  - Conquered Nguni clans
    - *amaThuli, amaCele, amaDebe*
    - Most fled south – to be known as the *amaMfengu*
  - Allegedly left an almost uninhabited area between the Tugela and uMzimkulu Rivers
  - Allocated land at the Bay to Europeans:
    - “Frontier Ruffians” (traders and adventurers) and the odd missionary at *siBubulungu*
- Rise of the Zulu Kingdom
The Bay of Natal – 1851 – by JB West
Durban – on the Bay of Natal today
Boer Republic – 1838 - 1843

- “Trekboer” = “Pioneer farmer”

- Mixed breed, predominantly of Dutch origin

- Strongly religious
  - Looking for their “promised land”

- Wealth was based on land ownership

- Unilaterally issued title deeds on conquered land

- “Natives” could not own land
“Trekboers” by Surveyor-General C. Bell
Boer “Eigendoms Grondbrief”

- “De Buffels Kop” farm
- On the “Zout Revier” (Salt River)
- District of Port Natal
- No. 7, dated 1st March 1842
- In favour of Salomon Maritz
- 300 Morgen in size
British Colony of Natal: 1843 - 1910

- Declared the Boers to be misguided British subjects
- Recognised Boer land occupation
- Ignored their title deeds
  - No diagram
  - Many “owned” multiple farms
- Instituted new land grants based on diagrams
  - Demanded a purchase price
  - Annual tax
By His Honor MARTIN THOMAS WEST, Esquire, Lieutenant-Governor of the District of Natal, within the Settlement of the Cape of Good Hope, &c., &c., &c.

In the Name and on behalf of Her Majesty VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To Andries Marthinus Laas

A Place of Land, containing Five Thousand Nine Hundred and Sixty Seven Acres of ground situated in the District of Natal and named Salt River, Extending Northward to Buffalo Kop, Southward to the Klaarwater and C.P. Kemp, Westward to Fakel Berg and Eastward to Roosfontein and Windbock.

as will further appear by the Diagram framed by the Surveyor—on condition that all roads and thoroughfares running over this Land shall remain free and uninterrupted; and that said Land shall be held (without compensation to its Proprietor), to have any road made over any part of it, for the public good, by order of Government and except those parts on which buildings may actually be erected at the time when such road is required to be made, under the general right of Procedure and power given to the same in suitable situations for and more than 24 Metres (leasts measure) determined by part survey and to such other surroundings as the safety of the public may require, deemed necessary for the interest of the public.

that he shall punctually pay, or cause to be paid, at the expiration of every twelfth month, from the date of these presents, unto the Treasurer of the District, the Sum of Five Pounds Sterling.

and be bound (according to the existing Laws of the District) to have the boundaries properly traced out, and the Land brought into such a state of cultivation as is capable of, the land thus granted being further subject to all such Duties and Regulations as any are already, or shall in future be established respecting Lands granted under similar Tenure.

Public Seal of the District

Given under my hand and Seal, at Pietermaritzburg this First Day of October,

One Thousand Eight Hundred & Forty Years

By His Honor's Command,

Surveyor-General.

SALT RIVER PORT

Extending Northward to Buffalo Kop, Southward to the Nieu Water and C.P. Kemp, Westward to Fakel Berg, and Eastward to Roosfontein and Windbock.

Surveyed 3 August 1869.

J.M. Thorneycroft

Surveys.
Mission and Native Reserves

• Khoi and San clans
  • Displaced by / assimilated into Nguni clans

• Nguni clans conquered by Shaka

• Attempted to re-occupy their old lands
  • After Dingane was defeated

• Relocated into Native reserves, or accepted onto Mission Reserves

• Source of labour outside the Reserves
  • On farms, mines, cities, railways
History of Land Rights

• Law of persons, wealth in cattle – temporal

• Unwritten – at Shaka / Dingane’s pleasure

• First written documents not understood
  • Written by “Frontier Ruffians” for themselves!

• Boer Republic
  • Freehold Title, but no diagrams

• British Colony
  • Crown issued Deeds of Grants with diagram
  • Reserves for the native population
Conclusion

- Diagrams and Title Deeds created by British colonial administration are still in place today!
  - A source of value to those who own them

- “Native and Mission Reserves”
  - became referred to as “Communal Land” in “KwaZulu Homeland”
  - 2.8 million hectares (or ⅓ of KwaZulu-Natal)
  - 26th April 1994 transferred to Ingonyama Trust
  - King Zwelethini as sole trustee
  - To this day, very few land rights have been issued
  - They remain overcrowded and underdeveloped,
  - Land with little value!
The “Trust Lands” of KwaZulu-Natal