Land Sharing in Phnom Penh: An Innovative but Insufficient Instrument of Secure Tenure for the Urban Poor

Expert Group Meeting on Secure Land Tenure: “New Legal Frameworks and Tools for Asia & the Pacific”

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Paul E. Rabé
Land Sharing—Definition

A negotiated agreement between landowner/developers and land occupants to partition and share a plot of land

» Most commercially viable portion goes to landowner/developers to develop

» Remaining portion is leased, sold or given to land occupants for legal occupation
Significance of Land Sharing

Land sharing as the “only way in which the urban poor can gain formal access to land and security of tenure within a city without a substantial subsidy”

(Yap Kioe-Sheng 1992)
Outline of the Presentation

• Land sharing
  » Definition
  » Principles
• Slum upgrading in Phnom Penh
• Guiding questions
• Pre-conditions for land sharing success
• Beyond land sharing
• Conclusion
Land Sharing—an Illustration

Land Sharing in Manangkasila area of Bangkok (1982)
Source: Archer, 1990.
Land Sharing—Basic Principles

Four basic principles of land sharing
(Yap Kioe-Sheng, 1992):

1. **Densification**: re-housing slum community on smaller plot of land
2. **Reconstruction**: demolition of (some) existing structures and rebuilding at higher densities
3. **Participation**: required during negotiations with landowner, allocation of new plots, demolition of existing structures, and reconstruction
4. **Cross-subsidy**: minimizing external subsidies by ensuring that land price rise of commercial portion can cover deficit from community’s inability to pay for land, housing and infrastructure
Land Sharing: a “Win-Win-Win” Solution?

In principle, land sharing offers prospect of a **WIN-WIN-WIN solution** to slum upgrading and redevelopment, through **compromise**, not forced eviction:

For land occupants:
- Improved housing & living conditions
- The right to stay in the city (titles)

For developers:
- Access to land
- Right to develop in strategic locations

For public authorities:
- Slum improvement
- No violence
- Private development
Land Sharing in Bangkok & Other Cities

- At least 7 cases of land sharing in Bangkok from 1970s to early 1990s
- Now reappearing in *Baan Mankong* national slum upgrading program
- Other Asian cities
- Various forms of land “sharing” exist worldwide, on public and private land

Land Sharing sites in Bangkok (1970s-1990s)
*Source: Archer, 1990.*
Land Sharing in Phnom Penh (1)
The Phnom Penh Context

- Active land market
- 6% avg. economic growth
- Developers expanding
- City center properties “hot”

569 informal settlements
62,000 households
Land Sharing in Phnom Penh (2)

• Announcement of an upgrading program of informal settlements in Phnom Penh (May, 2003)
  » 100 settlements per year for 5 years
  » Land titles to be provided
• Political breakthrough after years of evictions
• Four pilot sites: chosen upgrading technique is land sharing
• Total population of 4 sites: +/- 4,000 families
Questions

• What is the outcome of land sharing so far in Phnom Penh?
• Why is land sharing turning out differently in Phnom Penh than in other Asian cities?
• Does land sharing in Phnom Penh result in tenure security for the residents of informal settlements?
Borei Keila

- Land sharing agreement:
  - Residents to be re-housed in 10 apartment blocks, on 2 ha
  - Developer gets building rights around perimeter of site
  - 12 ha of site is freed up for future development

Total area: 14 ha.
Dey Krahom

- Land sharing abandoned
  - Physical site constraints
  - Residents negotiating with developers for suitable relocation package
  - Little intermediation

Total area: 3.7 ha.
Railway Sites (A & B)

- Land sharing deadlocked
  - Leaseholder resists land sharing
  - Communities resist relocation
  - Little intermediation

Total area: 1.3 + 10 ha.
## Pre-Conditions of Land Sharing

- **What makes parties come to the negotiating table?**
- **What makes compromise possible?**
- Power of main stakeholders (land occupants and landowner and developers) must be fairly evenly matched
- At least 7 main pre-conditions

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
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<tr>
<td>Buoyant local economy &amp; booming land market</td>
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Three driving forces of land sharing in Phnom Penh:

- Buoyant local economy & booming land market: Present
- Well organized community; community consensus: Still developing
- Long-established community: Present
- Sustained intermediation by third party: Largely absent
- Physical (site) feasibility: Present, except in one case (DK)
- Suitable financial package: Present
What is Behind the Driving Forces?

• Active land market
  » Developers seek access to land & properties in city center through land purchases and swaps, or through “sharing” (Borei Keila case)

• Financial arrangements
  » Developer pays for new housing on site or in new site; housing is free for land occupants
  » Developer gets land or right to build

• Land occupants in many informal settlements may have “possession rights”
  » Provision in Land Law 2001
Current Trends

• Lack of public intermediation
• Process of “interest sharing”
  » Negotiation and power struggle between private developers and land occupant communities
• From supply-driven to demand-driven
  » First case of Borei Keila was supply-driven process—land sharing imposed
  » Other three cases: lack of intermediation
  » What do the people want? They want the best deal, which is not necessarily staying in the city
• Moving beyond land sharing
  » Land sharing compromise has limited appeal
  » Practical difficulty
Conclusion: Lessons from Bangkok

- Land sharing *can* work!
  - All 7 land sharing sites now fully integrated into the city
- Getting the poor to benefit from land price rises
- Land sharing experience parallels emergence of civil society and political openness in Thailand:
  - Since 1980s communities much better organized
  - New constitution
  - Democracy at local level
  - Rise of NGOs and CBOs
- Conflict between public agency commercial interest (Crown Property Bureau, King’s Property Bureau, Treasury Dep’t) and public concern and image
- Impact on the poorest residents and on original residents?
  - Land sharing schemes have excluded newcomers, renters and poorest of the poor (Askew, 2002)
  - Cost of rebuilding homes can be too much for poorest households, who sell their rights and squat elsewhere
  - Residents complain of rising costs associated with regularization
  - High turnover of communities after agreement
  - Some cases: only few original residents remain
Criteria of Success—Bangkok

Wide variety of circumstances of land sharing...

- High stakes: all land sharing sites located in or near city core and main employment centers
- Main communities affected resisted “silent evictions”
- Strong employment link: communities in local service sector and small-scale industries
- Crucial role of intermediary organizations (NHA) and “allies”

- Slums that have been more successful at resisting eviction are:
  - Larger
  - Better established
  - Better connected
  - On public land
- Landowners participate in land sharing not by legal necessity, but for pragmatic and “cultural” reasons (charity and merit-making)
- Political will
Conclusion: Land Sharing in Phnom Penh

- In Phnom Penh, intermediation by third party is critical
  - Without intermediation, parties will not necessarily gravitate towards land sharing...
- Land sharing not a “solution” to eviction!
  - Comparatively small-scale and low impact
  - Success depends on many circumstances
  - Difficult to replicate at broader scale
  - Depends on physical/site characteristics
- Secure tenure: is the inducement strong enough?
  - Many land occupants may already have possession right
  - Land occupants can get (more) secure tenure through other schemes (land swaps with developers)
  - Many families may prefer to swap their land in the city
Land sharing in the city?

...Or a move to new premises outside?

A dynamic situation, with shifting priorities, preferences, and interests of developers AND community residents ...
Paul E. Rabé

- Freelance consultant in urban management, based in Phnom Penh, Cambodia
- Doctoral candidate, DPDS, School of Policy, Planning & Development, University of Southern California

E-Mail: paul@paulrabe.org
Tel: +855 12 440 650
E-Fax: +31 20 524 8999