A Historical Post-formalisation Comparison of Two Settlements in South Africa

L Roux & M Barry

FIG Congress 2010
Facing the Challenges – Building the Capacity
Sydney, Australia, 11-16 April 2010

Introduction

Off-register transactions

Transmuted Titles
• trans – across
• mutare – change form

Land Registration System

Title deed as evidence of registered transaction

Unofficial Community System

Title deed as symbolic artefact embodying ownership

www.geomatics.ucalgary.ca
Introduction

Phumla

Fingo Village

Old Transvaal & Ciskei Areas

Fingo Village: History

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1855</td>
<td>Fingo Village surveyed</td>
</tr>
<tr>
<td>1857</td>
<td>320 titles allocated</td>
</tr>
<tr>
<td>Late 1800s</td>
<td>Continued population growth</td>
</tr>
<tr>
<td>1941</td>
<td>Proposal to expropriate all property in Fingo Village – rejected</td>
</tr>
<tr>
<td>1950</td>
<td>Group Areas Act</td>
</tr>
<tr>
<td>1957</td>
<td>Fingo Village designated a “coloured group area”</td>
</tr>
<tr>
<td>1970</td>
<td>Fingo Village proclaimed a “coloured group area”</td>
</tr>
<tr>
<td>1980</td>
<td>Government announce Fingo Village may remain a “black group area” but ownership replaced with 99-year leasehold</td>
</tr>
</tbody>
</table>

(Adapted from Barry 1999)
Fingo Village: Land Records

Cecil Manona (1987)

• Dead man’s titles
• Family land (umhlaba welifa)
  • custom
  • intestate

Fingo Village: Land Records

Rosalie Kingwell (2009)

• 1920’s – government aware of mismatch in records
• 1940s, 1960s, 1980s – commissions to re-adjudicate dead man’s titles

• Current Situation
  • Evidence of ownership
    • correspondence related to commissions
    • titles – but most titles not current
    • municipal accounts
Fingo Village: Land Records

Rosalie Kingwell (2009)

- Inheritance
  - most families interviewed obtained land through inheritance

- Titles remain a symbol of family ownership

- Belief: physical form of title conveys ownership
  - poor understanding of conveyancing

- Security of tenure
  - social recognition
  - municipal services and government subsidies

- Will

Two systems operating in parallel

Fingo Village: Land Records

Rosalie Kingwell (2009)

- Family ownership
  - membership
  - rights
  - inalienable
  - responsible person as custodian

- Municipal perspective
  - ignorance, poverty, lack of education, indiscipline

- Hybrid form of tenure
  - title as symbol
  - social recognition of family tenure

- Land registration system
Phumla: History

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1950</td>
<td>Group Areas Act</td>
</tr>
<tr>
<td>1951</td>
<td>950 black Africans in Seedorp area</td>
</tr>
<tr>
<td>1963</td>
<td>Phumla established</td>
</tr>
<tr>
<td>1965</td>
<td>People forcibly removed to Phumla</td>
</tr>
<tr>
<td>Mid-1980s</td>
<td>1500 residents in Phumla</td>
</tr>
<tr>
<td>1988</td>
<td>Houses sold under 99-year lease</td>
</tr>
<tr>
<td>1996</td>
<td>4883 residents in Phumla</td>
</tr>
<tr>
<td>2001</td>
<td>RDP project (1500 houses)</td>
</tr>
<tr>
<td>2007</td>
<td>30,000 residents in Phumla</td>
</tr>
</tbody>
</table>

Phumla

Informal Settlement
RDP Project
Old hostels
Old family housing

www.geomatics.ucalgary.ca
Phumla: Land Records

2001 RDP project
• Seedorp municipality – mismatch in records
• Off-register transfers (sales, inheritance)
• Perspective of municipality and conveyancers
  • cost
  • education
• Land Titles Adjustment Pilot Project

Phumla: Land Records

• Inheritance
• Secure a house for my children
• Property and Family
Discussion

Land Records

- Mismatch in land records
- Family Tenure
- Transmuted Titles
  - Municipal perspective
  - Prevailing belief system

Conclusions

- Fingo Village and Phumla
- Family Tenure
- Planning and Administration
- Security of Tenure
References
