



Property rights and the production of the urban built environment – Evidence from a Zambian city



Ephraim K. Munshifwa^{*}, Manya M. Mooya

University of Cape Town, Department of Construction Economics and Management, South Africa

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ABSTRACT

This study investigated the phenomenon whereby settlements with ostensibly similar socio-economic status exhibited significantly different physical outcomes, such as in the quality of houses, spatial arrangements and available services. The study investigated two related questions. Firstly, given the similarity in the levels of incomes, what is the relationship between property rights and physical development outcomes in low income settlements? Secondly, what are the underlying mechanisms and processes by which these physical developments are produced? Using a theoretical, conceptual and analytical framework provided by the new institutional economics, the study employed the comparative institutional analysis methodology to determine the influence of three types of property rights on the production of the built environment in Zambia. These rights were categorised as informal, semi-legal and legalised, and are to be found respectively in Mindolo North, Chipata and Ipusukilo, three settlements in Kitwe selected as case studies. The study finds that stronger property rights are associated with better quality physical development outcomes. Furthermore, the study finds that different types of property rights are associated with different mechanisms and processes for the production of the built environment.

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1. Introduction and background

The State of the World's Cities Report 2010/2011, "Bridging the Urban Divide" reports that out of the world population of 6.86 billion, 3.49 billion (or 50.6 per cent of the world's population) live in urban areas (UN-HABITAT, 2008). Because of the influx of people into urban areas, many governments are facing challenges in the provision of services in the built environment, such as land, housing and infrastructure. In the absence of adequate formal provision to accommodate the ever-increasing urban population, the majority of new comers into the urban areas find themselves in informal areas (Abramo & Rodriguez, 2011; Fekade 2000; Rakodi 2007). UN-HABITAT (2008) for instance reports that the number of slum dwellers in the developing world has risen from 767 million in the year 2000 to an estimated 828 million in 2010. In Sub Saharan Africa (SSA) over 61.7 per cent are now accommodated in informal areas (UN-HABITAT, 2008), attributed mainly to urbanisation.

A paradoxical feature of the urbanisation process in developing

countries is that it is, for the most part, led by settlers who hold informal or illegal rights to land. To put it more directly, the production of the built environment, which is the physical manifestation of the urbanisation process, is led by agents who lack the formal rights to do so. Despite this lack of formal property rights, the acquisition of land, the construction of housing and the market exchange of both proceeds apace in more or less orderly fashion. The paradox arises because, firstly, the very emergence of these settlements is illegal, and thereby liable to disruption by State institutions, and secondly, the private transactions in land and housing, being illegal, are not formally enforceable, thereby making for a precarious environment. And yet, and despite these problems, the urban environment in developing countries appears to be supportive for the rapid expansion of low-income settlements generally, and of informal settlements in particular.

That informal real estate markets play an important role in the urbanisation process of developing countries is well established in the literature (see for instance Antwi, 2002; Kironde, 2000; Mooya, 2009; Posel and Marx, 2011; Rakodi, 2007; Rakodi and Leduka, 2004; de Soto, 2000). While useful, little on this work examines in depth the effects of different property rights regimes on the production of the physical form of the urban environment. In this

^{*} Corresponding author. University of Cape Town, Department of Construction Economics and Management, Private Bag X3, Rondebosch, 7701, South Africa
E-mail address: ephraim.munshifwa@uct.ac.za (E.K. Munshifwa).

context, this study investigated the phenomenon whereby low-income settlements with ostensibly similar socio-economic status exhibited significantly different physical outcomes, such as in the quality of houses, spatial arrangements and available services. Working on the premise that the differences could be accounted for by different property rights regimes, the study investigated two related questions. Firstly, given similar incomes levels, what was the relationship between property rights and physical development outcomes in low-income settlements? Secondly, what are the underlying mechanisms and processes by which these physical developments are produced?

This study is based on Zambian cities where current statistics indicate that about 60% of the Zambian population now live in slum areas (UN-HABITAT, 2012). In Lusaka, the capital city, the Central Statistics Office (CSO) reported that 90% out of the 300,000 housing units are informal and that these informal areas accommodate 70% of its close to 3 million inhabitants (CSO, 2011). In the case of Kitwe, Zambia's second largest city and from which the case study low-income settlements are drawn, the 2010 Census of Population and Housing shows that the city has had an annual population growth rate of 3.3% over the period 2000 to 2010, increasing its population from 376,124 in 2000 to 522,092 in 2010 (CSO, 2011). Unofficial statistics, however, suggest that the population may be as high as 700,000 while transient population could even increase it to as high as 1.2 million during daytime (UN-HABITAT, 2009). This increase in Kitwe's urban population is manifested in serious accommodation problems and an increase in informal settlements. The number of informal settlements has thus risen from 19 in 2005 to 28 in 2010 (KCC, 2012; UN-HABITAT, 2012).

The study employed the comparative institutional analysis methodology to determine the effects of three types of property rights, of varying strength, on the production of the built environment in Zambia. These rights are informal, semi-legal and legalised (described in greater detail under the methodology section), and are to be found, respectively, in Mindolo North, Chipata and Ipusukilo; three low-income settlements in the City of Kitwe selected as case studies.

The rest of the paper is arranged as follows: Section 2 reviews the empirical literature and argues that there is an absence of empirical studies explaining how 'extra-legal' property rights contribute to the production of low-income settlements, as part of the built environment, in developing countries. Section 3 details the methodology used for the investigation in these settlements and also presents the conceptual schema to classify property rights while Section 4 presents and discusses the empirical findings from the three case study settlements. Section 5 concludes the paper.

2. Literature review

A number of studies which discuss various parts of the research questions have been reviewed for this paper, such as on informality in general, security of tenure in informal settlements, accessibility to land in informal settlements, informal land transactions and real estate markets. For instance, studies such as Antwi and Adams (2003), Nkurunziza (2007) and Kombe and Kreibich (2000) have been carried out on informal settlements in Ghana, Uganda and Tanzania, respectively.

Antwi and Adams (2003) examined the question of whether informal land transactions are responsible for the many problems experienced in most cities of Sub-Saharan Africa as asserted by literature such as Asiama (1990) and others. Using data from Accra, Antwi and Adams (2003) concluded that evidence pointed in the opposite direction - meaning that transactions are characterised by fully "rational" economic behaviour and conducted outside the bureaucracy. This supports the existence of functional informal real

estate markets with "rational" participants where property rights on land are exchanged. Nkurunziza (2007) used three case study settlements to analyse and explain the nature of institutions that regulate and underpin land delivery processes in informal settlements in Kampala, Uganda. This research concluded that these non-state institutions are eclectic in nature and draw on various normative orders including State law, rules of market exchange and customary practices. Kombe and Kreibich (2000) also studied two informal settlements in Tanzania. They found that the "socially regularised housing sub-system is often based on institutions and guided by norms and procedures which are substituting the deficiencies of the formal public sector" (Kombe and Kreibich, 2000: 9).

Other studies in similar developing context with those in Sub Saharan Africa have been carried out in China by Wang, Wang, and Wu (2009), Vietnam by Kim (2004) and Pacific towns and cities by Chand and Yala (2008). For instance, Wang et al. (2009) looked at the growing informal housing developments (*or informal settlements*) in China, commonly called urban villages, in Shenzhen city. They concluded that urban villages (*or informal settlements*) are a very important part of the urbanisation process. Kim (2004) examined a contrasting situation of trading in weak legal private property rights in Ho Chi Minh City of Vietnam. The findings were that multiple forms of property rights, enforced by highly centralised state institutions were operational. The conclusion was that "legal title itself is not the most valuable form of property right" (Kim, 2004: 301). This study provides a comparable scenario to the current research.

Chand and Yala (2008) also found that informal urban settlements are a growing and permanent feature of Pacific towns and cities, including Honiara (Solomon Islands) and Port Moresby (Papua New Guinea). However most of this growth is on land with various uncertainties such as disputed title and/or customary title. Chand and Yala (2008) thus concluded that informal urban growth and tenure arrangements will take place whatever the regulatory framework.

The study also found literature on property rights and urban development within institutional economics but from a town planning perspective. These include studies such as Lai et al (2008) which use a game-theoretic approach to urban land development in China, Lai and Hung (2008) explaining the inner logic of the Coasian theorem in relation to the planning research agenda, Lai, Chu, and Lorne (2014) on the Coase Theorem and squatting on Crown Land and water in Hong Kong and Webster and Wu (2001) on the use of agent-based simulation models in urban development.

A number of other studies have been conducted to understand informality from various perspectives which were also reviewed for this study. For instance, research has been conducted by Cross (2002) on security of tenure in informal settlements; Budds and Teixeira (2005) and Rakodi (2007) on accessibility to land in informal settlements; Alden (2007) and Cousins et al. (2005) on reforming/formalising property rights and the real estate markets; de Soto (2000), Dundar (2001) and Fekade (2000) generally on informality. Other studies have focused on aspects of informal land transactions and real estate markets such as Antwi (2002), Antwi and Adam (2003), Mooya (2009), and Mooya and Cloete (2007).

This study finds that explanations on informal settlements are varied but very few are pointed at explaining the production of the urban built environment. Because of the multiple faces of informal settlements, much of the literature on the emergence of informal settlements ends at the dominant explanation of urbanisation. While urbanisation is a key factor in urban economic growth, these explanations do not go deeper to the level where the contribution of informal property rights and mechanisms to urban growth are

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