

Securing Tenure and Transactions in Dansoman, Accra

Rita SEWORNU, Ghana and Michael BARRY, Canada

Keywords: Tenure Security, Land Registration, Alternative Tenure Securing Strategies, Customary Tenure

SUMMARY

Drawing on the case of the systematic land titling project piloted in Dansoman, a suburb of Accra, Ghana, this paper investigates why and how landholders, use or do not use land registration when securing their land rights/transactions. Empirical evidence indicates that the rate of property rights formalization in Ghana and other countries in Sub-Saharan Africa is low. Land titling has been advocated by some policy makers and scholars as the answer to insecurity of transactions/rights in land in sub-Saharan Africa. Widespread tenure insecurity in urban areas and the low patronage of land registration raises two essential questions. First, if securing claims/rights to land has become such an important issue for people, why are landholders in Accra not using the land registration programmes? Secondly, if they do not use land registration, how do they secure their tenure and secure transactions in land interests? The study confirms the multi-faceted nature of the factors that influence landholders in adopting a strategy to secure tenure. It also highlights the importance of both macro level and local, micro level factors such as politics, history and culture and social change in explaining registration usage or other strategies.

1. INTRODUCTION

This paper investigates why and how landholders in Dansoman, a suburb of Accra, Ghana's capital city use or do not use land registration when securing their land rights and when securing land transactions. Premised on the assumption that genuine demand for land registration by landholders is one of the critical factors for the success of land registration, the purpose of the paper is to contribute to theories that explain why residential landholders in urban settings use or do not use land registration and other strategies when securing land rights and securing land transactions. In this paper, we limit our discussion to the titling program and the systematic titling piloted in Dansoman.

Land registration usage in Sub-Saharan African (SSA) countries, including Ghana, remains low despite over three decades of its promotion by the World Bank and other international development partners (Baffour Awuah and Hammond, 2013; Toulmin 2008; Joireman 2008; Deininger and Augustustinus 2005). Most land registration programs in the region have been implemented on the assumption that, once land becomes scarce and factors/conditions such as urbanization, increasing population pressures and market integration (commercialization) are present, people will demand and use land registration to secure their land and transactions (Platteau, 1996). Yet, landholders in urban areas take up of land registration may be low, even though these factors/conditions may be in place (Barry 1999, 2005; Barry and Roux 2012; Roux, 2013)

The phenomenon has been attributed to a number of factors, including administration inertia, the registration law, high costs of procuring land title, cumbersome procedures, corruption and lack of awareness and access (de Soto, 2000; Sittie, 2006, Jacoby and Mintern, 2007; Arko-Adjei, 2011; Odame-Larbi, 2012). De Soto (2000) for instance explained that the poor protect their assets through extra-legal arrangements rooted in informal consensus disbursed through large areas because they do not have access to the formal property system due to the law and administrative failures. These explanations in the literature are not based on door to door empirical studies of landholders. These theories need to be tested at the household level especially when recent empirical works have documented that factors that influence landholders in deciding which strategy to adopt to secure their tenure or land transactions are multi-faceted and not necessarily solely a function of flaws in the law and dysfunctional land administration systems (Barry et al, 2012)

This paper is based on a preliminary analysis of field data collected over 6 months in Dansoman, one of the suburbs in Accra piloted in the systematic titling programme under Land Administration Project. Semi-structured, open-ended questions were used to elicit information from 26 individual residential landholders in Dansoman and 2 traditional authorities. Additional information was also gathered from 10 officials of the state land institutions (the Lands Commission – Land Registration Division, the Public and Vested Land Management Division, and the Survey and Mapping Division and the Land Administration Project Unit), 2 Consultants for the systematic titling project, 2 officers of the Property Fraud section at the Ghana Police Headquarters, 5 key informants comprising 2 lawyers, 2 land experts, and 1 land court judge.

Interviews explored life histories, personal experiences and knowledge of other people's experiences relating to the use of land registration and other strategies to secure land

Securing Land Transactions in Dansoman, Accra (7572)
Rita Sewornu (Ghana) and Michael Barry (Canada)

transactions and secure land rights; how land is accessed in Accra; problems encountered in acquiring and securing lands; perceptions of risk and actual risk of losing land; the reason for using a particular strategies; and circumstances and conditions favouring the use of land registration and/or other strategies.

2. PROPERTY RIGHTS FORMALIZATION IN GHANA AND ACCRA

Ghanaian governments have implemented different land registration programs for varied interests (Agbosu, 1995). The latest being the compulsory systematic land titling program under the land administration reform dubbed the “Land Administration Project” (LAP) (LAP, M&E report, 2009). Key output indicators of the project was the titling and registration of 300,000 parcels of urban land to individuals and at least 80 allodial titles to stools, skins, tendambas clans and families (Project Appraisal Document, 2003).

Ghana practices two systems of land registration which operate concurrently – deed and title registration. The deed registration is regulated by the Land Registry Act, 1962 (Act 122) and the titling by the Land Title Registration Law, 1986 (PNDCL 152). Whereas, the deed registration system operates in all parts of the country, the title registration system operates in Greater Accra region (comprising 22 districts) and Kumasi (in one district comprising what appears to be two suburbs). Deed registration is currently in the process of being replaced by the registration of title or re-engineered as an improved deeds system (Memorandum, Land Title Registration Law, 1986; LAP Document, 2012; Interview 303 -140608). Deed registration is the oldest and was introduced in 1852 (Odame Larbi, 2012)

In this paper, we limit our discussion to the titling program and the systematic titling pilot. Title registration involves a series of complicated procedures. A plethora of state land agencies are involved in the registration process. Title registration is the main responsibility of the Land Registration Division of the Lands Commission. Other agencies involved are the Survey and Mapping Division, Public and Vested Land Management Division (PVLMD), and the Land Valuation Division (LVD).

Even though, the registration law was crafted for compulsory and systematic titling, it has been implemented voluntarily and sporadically (Interview 301-140508; 302-140608; Memorandum – Land Title Registration Law, 1986). The implementation procedures for titling have been cited among the reasons for the low rate of titling and a contributor to the perennial insecurity of tenure in Ghana.

2.1 LAP’s Systematic Land Titling Project

LAP piloted a subsidized systematic titling in six neighbourhoods of Accra (West Cantonments, Osu, Kaneshie I & II and Dansoman I & II) and two neighbourhoods in Kumasi (Danyame/Ridge and Patase/Suntreso) in 2010. The exercise is a door to door method of titling land and property by applying the section by section, block by block, parcel by parcel and the one parcel – one visit principle (LAP, 2010; Interview 301-140508; 302-140608).

Securing Land Transactions in Dansoman, Accra (7572)
Rita Sewornu (Ghana) and Michael Barry (Canada)

FIG Working Week 2015
From the Wisdom of the Ages to the Challenges of the Modern World
Sofia, Bulgaria, 17-21 May 2015

Field teams comprising surveying and registration teams moved from property to property systematically to capture information for registering the properties. The field team measured the boundaries of the properties and buildings in the project area and filled Land Title Registration Forms and a questionnaire for the landowners. Land owners were required to submit photocopies of all their land documents to the field team. Land owners who had already lodged their documents with the Land Registration Division were required to submit photocopies of their acknowledgement card, popularly referred to as “yellow” card, and other relevant documents to the field team for retrieval and processing of their applications. If all requirements had been met, a title certificate was to be issued within three months from the date the data is collected. A flat rate of GH¢50 (±\$15 US) was to be charged as the processing fee, payable on collection of the certificate.

The principal rationale for piloting the systematic land titling was to address the often-referred implementation defects of the Land Title Registration (PNDC Law 152). The aim of the exercise thus is to enable land owner’s register their lands in a simple, fast and cheap manner thus encouraging land registration. The result from the exercise was to provide lessons for up scaling title registration throughout country.

2.2 Registration Take-Up in Ghana

In over a century of land registration, less than ten percent of Ghana’s land area is registered. Land rights are increasingly individualized and privatized in Ghana’s cities (Owusu, 2008), yet, a large number of land transactions are not registered (Arko-Adjei, 2005; Kuntu-Mensah, 2006). Mahama and Adarkwa-Antwi (2006) and Abdulai and Hammond (2011) attested to the low rate for land registration use when they estimated that for most urban areas, less than eight to ten percent of land allocations made by customary owners are formally registered. Baffuor and Hammond (2013), on the other hand recorded a lower land registration rate of 5 per cent for the whole country.

With the systematic titling pilots, the original goal of the exercise was to title 300,000 land parcels (this was later reduced to 50,000 parcels) in urban areas (LAP Phase One Review Report, 2011). Upon its completion in 2010, only about 10,860 land parcels had been surveyed, out of which 5,760 parcel plans have been approved for titling. In Dansoman where we collected our data, about 3,744 parcels had been surveyed, with more than 1,000 parcels still to be surveyed (Daovtech final report vol. 1 and 2, 2011; Losamils final report, 2011). According to officials, an estimated eighty percent of the land parcels have been surveyed, but less than ten percent have been registered (Interview 01 20140317; LAP documents).

Studies have attributed the low rate of land registration usage in Ghana to a dysfunctional land administration system as the reason why people do not use land registration. The system is dysfunctional because of complex procedures, lack of logistics; high cost of registration in terms of statutory fees, delays, travel time and cost and extra-out of pocket payment made towards the facilitation of registration (Kasanga and Kotey 2001; Kuntu-Mensah 2006; Sittie, 2006; Arko-Adjei, 2011; Hammond and Abdullai, 2011; Larbi, 2012). Lack of awareness of the legal requirement to register and a belief that formalization is not useful have also been

Securing Land Transactions in Dansoman, Accra (7572)
Rita Sewornu (Ghana) and Michael Barry (Canada)

suggested as reasons for low title formalization rate in Ghana. A recent study by Baffuor-Awuah and Hammond (2013) however did not find these as a strong determinants of land registration usage. They concluded that that the low level of registration usage stems from the system being favourable to the highly educated formal sector employees who can manipulate the system.

The explanation for the low title formalization rate in Ghana although valid to some extent, still fails to explain why people will choose particular strategy to secure their transactions or rights. Local and micro level factors consisting of local politics, historical and cultural factors as well as social change resulting from urbanization, population growth and economic activities such as land scarcity, commodification of land access, chieftaincy disputes, manipulation of customary law among others play significant roles in influencing the decision of landholders.

We explore and explain the reasons accounting for the low patronage of land registration through the three stage land registration usage framework by Barry et al 2012. The framework draws on the theory of planned behaviour and the influence of local politics and social change.

3. LAND REGISTRATION STRATEGY USE FRAMEWORK

According to the framework, portrayed in Figure 1, the main personal factors that influence an individual's decision regarding a particular strategy for securing his/her tenure are usefulness (perceived and actual) and accessibility (ease of access, ease of use and the resources necessary to use the chosen strategy). An individual evaluation of the usefulness of a particular strategy may be driven by the form of tenure they hold, the current and the future use of land, the benefits they stand to gain from using a particular strategy as compare to other available strategies, and the level of risk they are prepared to assume in adopting a particular strategy (Barry et al, 2012)

Accessibility as mentioned has three primary antecedents. Ease of access is associated with the opportunities available to register such as the ease with which an administration agent (e.g. private registration agency) or government land registry may be accessed. Secondly, the registration process should be easy and worth the time and effort a person has to invest in it (e.g. few trips and effort a person has to invest in it (e.g. few trips to the agent, simple and easy to use forms and processes, low risks of the document being rejected or misplaced). Thirdly registration should be affordable and provide what is perceived to be value for money, time and the effort involved in registering when compared to other strategies to secure tenure or a land transaction (Barry et al, 2012).

Additional factors that may be critical to a person deciding which strategy to adopt and actually using it are social norms and control /enabling factors (factors that impede registering and factors that facilitates registering if a person was unable to register on their own). Practically, a landholder deciding to use a particular strategy to secure his or her interest in land may evaluate the opportunities and the resources (for example finance, time, social networks, connections, and skills) available to him or her to perform the behaviour, and if they have the power to perform it (Barry et al., 2012). Control factors may compel people into choosing a particular strategy that they might otherwise avoid (Fishbein and Ajzen, 2010; Ajzen, 1991; Taylor and Todd, 1995). Enabling factors assist people who lack the resources or power to register their land, and can only do with outside support (Barry et al, 2012). Impediments hinder registration. A person may consider registration to be useful and would register a transaction if something did not impede him/her from doing it within the time they need to complete the transaction. Local politics and social change dynamics may result in a person lacking the power to register. Legal impediments may include providing the documentary evidence proving that the seller actually has the right to sell and complying with procedures that have to be completed before a transaction may be registered such as the need to clear land taxes and other municipal debt. If parties to the transaction consider these impediments too onerous given their current circumstances, they may transfer informally even if they consider registration to be the ideal method of executing transactions (Barry et al, 2012).

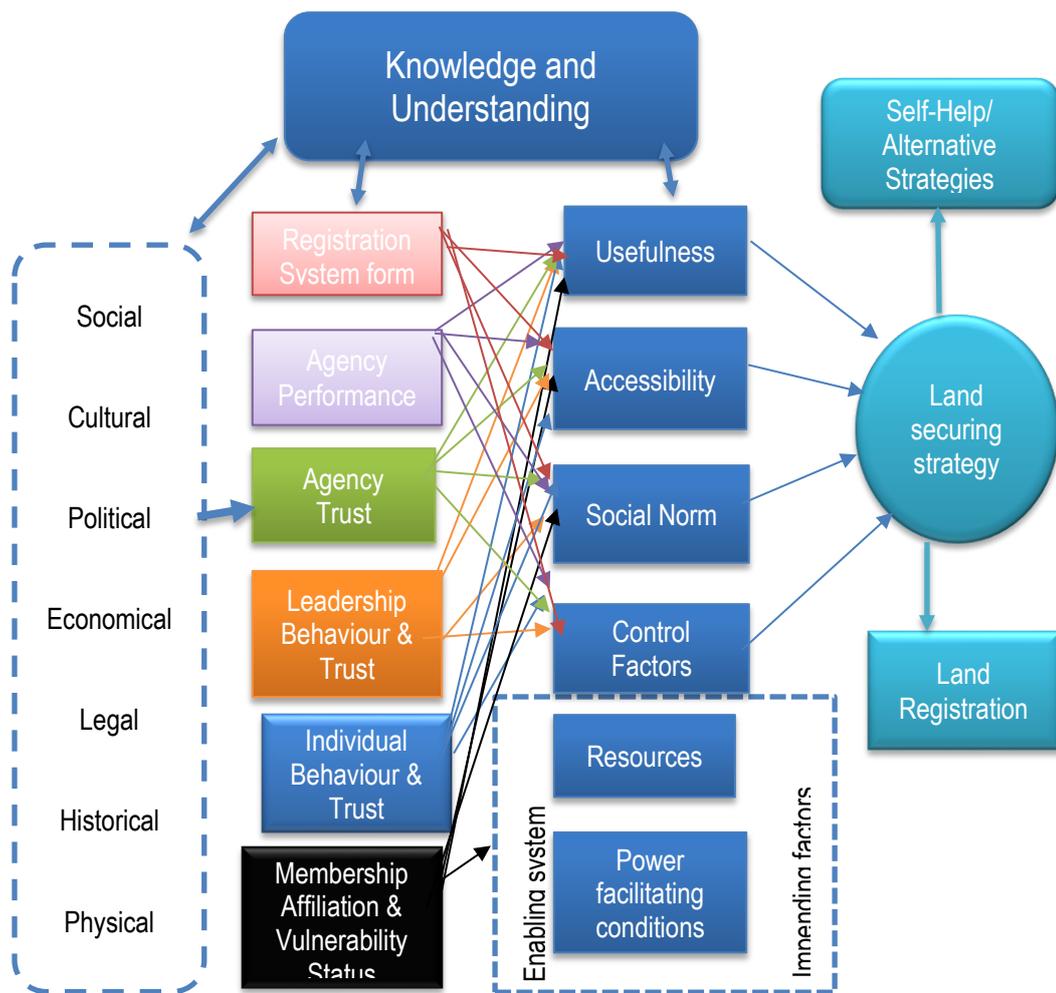


Figure 1: Land Securing Strategy Framework (Barry et al 2012)

General causal factors inform or influence the personal factors are: agency performance, agency trust, individual behaviours, membership or affiliation with a particular group, registration form (Barry et al, 2012). Instrumental to all these factors are an individual's knowledge and understanding of the land tenure system, the different options for accessing and securing tenure inform their decision-making (Barry et al, 2012).

Although this framework may not be exhaustive on all the factors, it essentially captures all the necessary categories of factors which influence an individual in deciding whether or not to use land registration to secure tenure and transaction. In the section below, we present how these factors manifest in Dansoman.

4. DANSOMAN STUDY

Dansoman is approximately 7 km from the Accra city centre. Predominantly a working class community, Dansoman is one of the most diverse in Accra in terms of household income and ethnicity (AMA, 2014). The population of the area is estimated to be 56,267 people (AMA, 2014). The housing is a mix of detached and semi-detached houses and apartment.

Historically, Dansoman comprises the villages Gbese, Mpoase, Dama, Glefe, Sakaman, Jonkobli and has an estimated area size of about 17,256 acres of land (221-140528). The land in Dansoman originally was customarily owned by the stools and families. The State through executive instrument (L.S No 233/68) have compulsorily acquired 1,716.14 acres of the land for Ghana Housing Corporation for housing development and a state poultry farm. Portions of the lands were sold to individuals in the past (Interviews 221, 222). The land set aside for the poultry farm land has been re-occupied by the customary owners. Ownership is currently disputed by the Gbawe Kwatei family and the Sempe Stool. There have been at least three court judgment decision over the land. Presently, the Gbawe Kwatei family have obtained a court judgment and a permit to demolish properties built by landholders who got their grant from the ungazetted chief of Sempe Stool. A chief must be gazetted to be recognized by government and government¹ institutions.

4.1 Contested History and Chieftaincy Dispute

Currently, two of the seven royal clans of Ga Mashie – the Ngleshie Alata stool and the Sempe stool lay claim to the Dansoman lands. The two stools have contested the ownership over the land in the Courts over the years (Quarcoopome, 1992).

Sempe Stool elders' narrative is that they are the first settlers of Accra and met only Obutus people who are located along the shore in the central region (West of Accra). They claim the lands in Dansoman by virtue of series of court judgments and also on the allegiance of chiefs of the “villages” that made up Dansoman (Akweman chief, Dama chief, Mapose Chief,

¹ Section 57 (5) A person shall not be considered to be a chief for the performance of a function under this Act or any other enactment, unless that person has been registered for the performance of that function in the National Register of Chiefs and that person's name has been published in the Chieftaincy Bulletin (Chieftaincy Act, 2008, Act 759).

Gbegbese chief, Gbegbe chief, Glefe chief, Npoase chief). In essence Dansoman is not under any one particular chief. Their narrative is that the original name of Dansoman is Anege man and that the area came to be known as Dansoman because the land was given to a certain man named Nii Kojo Danso as a care taker by the Sempe stool. Subsequently the area was named after him and because the name became very popular and recognized, they decided to maintain it even after the death of Nii Kojo Danso. The land however does not belong to Ngleshie Alata stool to which Nii Danso belonged (Interview 221-140528).

The Ngleshie Alata Stool narrative on the hand is that Nii Kojo Danso I from Ngleshie Alata clan in James Town is the founder of Dansoman. According to them, the Chief of Ngleshie Alata in the olden days appointed brave men and sent them to head newly found villages. Nii Danso I came to this area as the caretaker for the Ngleshie Alata stool because he was a warrior and also from the royal house called Ajumako Darapo. Nii Danso I was living here alone, until the Chief decided to send other people to help him develop the settlement.

They supported their claim by virtue of the government contacting them for the compulsory acquisition. They won a case against the government in 2004 over non-payment of compensation (Nii Kojo Danso vrs Executive Secretary Lands Commission, Lands Valuation Board and Attorney General). The court awarded them 50 million Ghana cedis.

On October 7 2014, two petitioners including Nii Kojo Danso appeared before the Judgment Debt Commission disputing the ownership of the Dansoman Estate land which was valued at 50 million Ghana cedis in 2004. The other petitioner Nii Adotey Din, chief of Mpoase contends that the Dansoman Estate land belongs to five families and not just one family as presented by Nii Kojo Danso (Ghana Broadcasting Corporation (GBC), 2014).

Beside the land ownership disputes over Dansoman, the Sempe stool itself is being contested by two claimants from the same family. According to the elders interviewed at the Sempe palace, they claimed to have destooled the gazetted chief Nii Adotey Obour II and performed all the necessary rituals to that effect. They alleged that they destooled him because he ordered for the black stool to be burnt; he has not honoured the oath of heeding to the call of the elders thrice; and has fraudulently negotiated over the Akokorfoto land (Sempe stool is contending with Gbawe Kwatei family over this land) and asked the agent to pay the proceeds into the account of his daughter.

According to them Nii Adotey Otintor is now their customary enstooled chief but he is not gazetted. As at time of the interview, the case is pending before the Ga Traditional council. As per the chieftaincy Act, until a chief is gazetted he will not be recognized by the government. Nii Adotey Obour II is gazetted, so his signature on documents are recognized at the Lands Commission and other government institutions. The elders interviewed at the palace said if Adotey Obour grants land to anybody in his capacity as the officially gazetted chief, they will stop it customarily (221-140528). Nii Otintor is therefore the one currently in charge of granting lands although he cannot sign any document or even if he signs a document it will not be recognized at the Lands Commission.

4.2 Tenure insecurity in Dansoman

Dansoman has had its share of land problems. There have been increased incidences of land guards grabbing land in recent times that have been reported in the media and confirmed in the field. The area is built up with a few pockets of undeveloped lands that are at the centre of most land conflicts in the area.

Like many parts of Accra, tenure is precarious in Dansoman. Tenure insecurity in the area is manifested in multiple sales, indiscriminate grabbing and selling of undeveloped land by traditional authorities without a regard to their fiduciary obligations. There are series of allegations against a contender for the Sempe Stool, Nii Otintor, that he uses land guards to terrorize people and for grabbing land belonging to others in the area. People think that Otintor acts with impunity because of his connection with people in the ruling party (Interviews 200-140310; 210-140326; 220-140515; 208-140326; 223-140602; 224-140602 225-140603).

Chiefs are manipulating the customary rules to enable them to alienate family land over which they do not have the power to alienate. At the same time new families have also sprung up claiming ownership of lands that used to be in the domain of chiefs. This makes it very difficult for land purchasers to ascertain the true owners (004-140510; 007-140609; 302-140608). Even where the true owners may not be in doubt, establishing the rightful traditional authority with the capacity to grant is another impossible task because of the numerous chieftaincy disputes and intra family disputes over headship.

Generally speaking, owners of developed parcels of land in Dansoman are not prone to the land grabbing and multiple sales problem. Nevertheless, they are subject to extortion from either their grantors or other factions as the traditional grantors request them to produce their documents annually and take some money during the Homowo² festive period (214, 215, 216, 220; 304). What is presently happening in Dansoman is that when a particular family or stool runs out of stock of land, they tend to revisit their old grants. A common sight in Dansoman is writing on walls that read “property of so and so stool or family, produce permit”. This is a request for people who have purchased to report to the traditional authority where they are asked to pay some money.

Local politics, social changes and the complexity of land problems in Dansoman the contextual issues that serve as a backdrop to understanding the internal factors that influence landholders in choosing what strategy to adopt to secure tenure and transactions in the area. The internal factors are examined below.

² Homowo which literally means hooting at hunger in the Ga language is a festival celebrated by the Ga people in Ghana (Osabu-Kle, undated)

Securing Land Transactions in Dansoman, Accra (7572)
Rita Sewornu (Ghana) and Michael Barry (Canada)

5. HOW PEOPLE ACCESS AND SECURE LAND IN DANSOMAN

How a person accesses land under custom depends on the person status in relation to the land. The customary law differentiates between how a member of a landholding group and a non-member, a stranger, can access customary land. Whereas members of the landholding family have an inherent right to the land, a non-member acquires interests in customary land on the strength of contractual arrangements (da Rocha and Lodo, 1999).

There seems to be no difference between how indigenes and strangers access land. Both the indigenes and non-indigenes of Dansoman who participated in the study accessed their land through inheritance, purchase, rental or simply living with parents or relatives.

To acquire land, the purchaser must first establish who the rightful owners of the land are. He or she will then approach the family head (if it is a family land) or the chief (if it is a stool land) with a drink to express an interest in the land. After initial negotiations, they will arrange and show the prospective purchaser the parcel of land. Thereafter, they will communicate the price and the terms to purchaser. Some families and stools have introduced verification of their ownership at the lands commission into the process. These families and stools have a layout of their land that they give to prospective purchasers for verification. When the prospective purchaser is satisfied, he or she will at this point make payment for the land. They services of a surveyor will then be engaged for demarcation and preparation of site plan. Depending on the situation, some purchasers may contact a lawyer at this point to draft the indenture (deed) which will be returned to the grantor(s) for their signatures. In most instances, the land granting families or stool have drafted copies of the indenture prepared by a lawyer along with the survey plan prepared by the surveyor. The involvement of the notary depends on the educational and financial position of the purchaser (221, 222 207, 209, 219)

5.1 How Tenure will be defended when challenged?

The response to this question by the people we interviewed gave us insight into their perception of their tenure security and the strategy they use or intend to use to secure tenure. Almost all the respondents interviewed were very positive that nobody can take their land from them. Nevertheless they say they will use documents in their possession to defend their claim to the land if they are taken to court. All the landholders interviewed claimed they have some sort of document. Some of the interviewees made references to property rate bill payments, others receipts of payment, others executed lease or registered indentures and unregistered indentures. Only 2 of the interviewees, an estate agent and a teacher married to a lawyer, had registered title (Interview 200; 209). Some also mentioned the chief or the grantors of the land for confirmation of their claim (212, 215, 216).

Although almost all of the respondents are willing to settle challenges to their interests in the land in court. They noted, however, that they will wait for the person challenging their claim to take them to court since there are already in possession of the land. In two interviews, a traditionalist couple and a male respondent indicated that would consult a spiritual medium (203, 210). The reliance on documents other than land title indicates the increasing importance of paper documentation especially for defending land, but it is only part of the strategy that people would use to defend their land.

Securing Land Transactions in Dansoman, Accra (7572)
Rita Sewornu (Ghana) and Michael Barry (Canada)

FIG Working Week 2015
From the Wisdom of the Ages to the Challenges of the Modern World
Sofia, Bulgaria, 17-21 May 2015

5.2 Strategies for Securing Tenure and Transactions

We found out that the main strategy that residential landholders adopt to secure their tenure and transactions when they first purchased is what will term self-help strategies in terms of physical possessions through fencing the land, developing structures right away or at least laying the foundation of the structure or building a single room structure. Some go a step further to put caretakers into the uncompleted properties or in the single room structure to watch over the land (200,216,217, 218, 221, 224).

People with large tract of lands or land in prime areas engage the services of land guards and private security companies (209,219, 221,222). Land guards are mostly employed by the stools, families, land dealers (businessmen/women) and companies (estate developers) with large tracts of lands (208, 209,). Individual residential property owners will use land guards only when the land is in dispute. Sometimes the land guards are assigned to them by the grantor(s).

In Dansoman, in spite of the door to door title registration that was done in 2010, only six of the residential property owners who we interviewed claimed to have registered their land. Two of them have registered title and the remaining ones a registered deed (205, 207, 219, 223). The two respondents with the land title certificate obtained it before the commencement of the titling project in the area (200-140310; 208-140403). The data therefore indicate that none of the people who had been surveyed in in the LAP project had registered their titles as a consequence for the programme.

The most significant finding of this study is that, none of the people interviewed rely on a single strategy to protect their tenure. They used a combination of strategies. The popular combinations are physical development, paper documentation and use of caretakers (200, 206, 207, 208, 209, 215, 219, 220, 224). It can be deduced from this that, perhaps due to precarious nature of tenure security, no one strategy can provide tenure security alone.

6. REASONS FOR THE CHOICE OF LAND SECURING STRATEGY IN DANSOMAN

6.1 Usefulness of Land Registration

Even though residential property owners in Dansoman acknowledge the importance of titling, they indicated that on its own it is inadequate. The use of other strategies is necessary (302, 303, 010, 219, 221).

This perception of landholders of the inability of title registration to give them secure tenure is one reason for resorting to other strategies. All the participants submitted that physical possession in terms of a structure on the land is the primary means to secure land in Dansoman. The reasons being that there are people with registered title that have had their land taken away from them (300, 302, 303, 304 305; 200, 210, 207,208, 209, 215, 221, 226,227, 004,007,008). For instance one male participant recounted his experience:

“...it happens a lot. It happened to me, I bought land the land in 1967 and have all the documents...I went to Lands Department to register the transactions and proceeded to obtain building permit but before I realized somebody has built on the land. The land is located in

Securing Land Transactions in Dansoman, Accra (7572)
Rita Sewornu (Ghana) and Michael Barry (Canada)

205 area of Dansoman. The land was sold to me by the Sempe Stool. I challenged the claim of the developer but due to the frequent coup d'état at the time I could not pursue the case” (215-140422).

Another reason why most landholders prefer building structures on the land to protect it against another claimant is that the person in physical possession / occupation cannot be evicted easily.

Developing the land immediately it is granted is also seen as a means of testing the ground, that is, if it is secured. It is a mean of finding out if there are other claimants or interested parties in the land. Should the land be granted to another person(s), immediately you enter and start developing it, all other claimant(s) will come forward (004-140510)

6.2 Accessibility

Unlike the findings of Barry et al (2012) of restriction on indigenes to register their land in a peri-urban area, this is not the case in Dansoman. The decision to register one's land whether as an indigene or non-member of the landholding group is a choice. This could be attributed to the fact that the area is completely urbanized and cosmopolitan in nature.

In terms of the antecedents of registration, again, neither ease of access, ease of use and availability of resources to register was an issue with the systematic land titling project since it was design to address these challenges.

The general causal factors however emerged in the study and were confirmed as very important in influencing landholder's decision in using or not using the registration system. In terms of agency performance, a good number of respondents who have registered or attempted registering their land says it took them between 2- 5 years to acquire land title or without a successfully registering (200, 209, 226, 227, 008, 010). Others expressed concerns about the inefficiencies in the title registration process that have led to multiple registration of the same parcels and issuing of land title certificate over a land that somebody else hold a registered deed (302, 303 227). Again, some people are able to register fraudulently without going through the due process. These have resulted in the cancellation of some land title certificates (302, 303, 004, 006, 007). The rise in the use of land guards to defend land in Accra were also attributed to perceptions of poor performance of the Lands Commission (219, 221, 224, 302, 303, 004, 010).

The study also discovered a strong perception of corruption at the institution involved in enforcing and protecting registered lands (lands commission, police and the court system) as (200, 207, 219, 220, 221 224, 227).

6.3 Control factors and Social norms

In this study, we established both enabling and impeding factors for using land registration and/or other strategies. The systematic titling was subsidized and brought to the door step of landholders in Dansoman. The subsidized price for the systematic titling is Gh ¢ 50 is far below the official (Gh ¢ 400) and the unofficial (Gh ¢ 1,000) cost of registering (001, 301). One view was that the subsidized price instead of encouraging registration instead created trust issues. An official ventured that people refuse to register because they think the price is too good to be true. People had the feeling that government want to take their land because they have attempted to register their land and paid (Gh ¢ 400) or more and still could not get it (reference). However, this perception did not triangulate with the hosue to house interviews in Dansoman.

The trust issue with the systematic titling can also be linked to the political history of property ownership. In the past, properties were confiscated whether during military rule. So some property owners still do not trust the government (001, 301, 302)

Interviews with key informants and staffs of lands commission also revealed that ownership structure of the properties in Dansoman was a hindrance to the titling exercise. Dansoman is an old neighbourhood so the original owners of some of the properties are deceased. These properties have evolved into family property where ownership is not vested in just one person (301, 001). The multiple owners present a peculiar challenge to registration since titling in general is tailored for individualization of landholding rather than securing titles.

Although majority of the respondents are educated, many of them did not know about title registration and the process involved in acquiring one (208, 209, and 223). In the case of the systematic titling, only 8 respondents out of the 26 resident landholders interviewed in Dansoman knew or remembered the exercise. Some have mistaken the lodgment card – yellow card, to be an acknowledgement of the government of their interest (210, 213)

The use of the off-register strategies to secure a transaction prevails because of the long time it takes for registration to be effected. People cannot wait for years to get a title certificates before commencing a development. People are therefore prepared to engage in off-register transactions and use whatever means possible to protect it (008, 004, 010).

The alternative strategies for securing properties, particularly, the physical possession such as building on the land immediately it is granted has become a norm and have worked for most people (004, 008, 200, 203, 227, 226, 302, 303). Pressures from grantor(s) that land purchasers develop the land immediately after purchase have further contributed to most people adopting this strategy rather than titling (008, 208, 221, 222). The use of land guards is gradually being legitimized on the ground so people do not see anything wrong with using force to defend what one believe is rightful his/her's (224, 227).

7. CONCLUDING REMARKS

In summary, we examined how landholders in Dansoman access land and the strategies they adopt to secure tenure and transaction within the context of the social changes that are manifested in the manipulation of customary laws as stools, the families and powerful individuals compete for the control of the lands. This is evidenced in the recent spate of land grabbing, land conflicts and revisiting of old grants in the communities. We also examined the reasons behind the usage or the non-usage of land registration and other strategies using the constructs of usefulness, accessibility, social norms and control factors.

The study revealed that landholders do not use other strategies to secure their land/transactions because they lack access to the formal property system as suggested by de Soto. Systematic titling in fact took the titling to the door step of landholders in Dansoman yet many of the respondents are not aware of it. For the eight respondents who somehow remembered the exercise were not bothered about getting land titles. We established that although paper documentations such as land title is becoming increasingly important, most landholders do not use it because they believe it does not provide them adequate security of tenure. The sources of tenure insecurity in the urban areas such as Dansoman where pressure on land is high is too complex to be addressed solely by land registration

Enduring customary tenure influences, the effect of social change in tenure practices, and heightened insecurity of tenure has resulted in people using a range of strategies to defend their land interests. These strategies include social processes (using witnesses and lineage status), building structures on the land to lay claim to it before another claimant does the same thing, use of caretakers, and hiring land guards and private security guards. Landholders adopt these strategies mostly in combinations. For the customary tenure system, physical possession and social processes are priority in securing transactions, but physical and written documents are becoming increasingly important.

REFERENCES

- Agbosu, L.K. 1990 Land Registration in Ghana: Past, Present and the Future *Journal of African Law* Volume 34 No 2 p.104 – 127
- Alhassan, O. and T. Manuh 2005. Land registration in eastern and western regions, Ghana. Research report 5 IIED and Institute of African Studies, University of Ghana, Legon, Accra.
- Arko-Adjei, A. 2011. Adapting Customary Land Administration to the Institutional Framework of Customary Tenure. Delft University, PhD Thesis
- Augustinus and Deininger 2005. Innovations in Land Tenure, Reform and Administration in Africa. Available at http://www.capri.cgiar.org/wp/..pdf/brief_land-06.pdf
- Baffour Awuah, K.G. and Hammond, F. 2013. Prognosis of Land Title Formalization in Urban Ghana: The Myth and Reality of Awareness and Relevance. *African Studies Quarterly*. Vol. 14 Issue 1 & 2
- Barry, M. B. 1999. Evaluating Cadastral systems in Periods of Uncertainty: A Study of Cape Town's Xhosa-speaking Communities. PhD thesis, University of Natal, Durban.
- Barry, M., Roux, L. and E. Danso 2012. Land Registration Usage Theory: A Case Study in Ghana". Annual World Bank Conference on Land and Poverty, April 23-26, Washington DC. Available at http://www.landandpoverty.com/agenda/pdfs/paper/barry_full_paper.pdf
- Da Rocha, B.J. and Lodoh C.H.K. 1999. Ghana Land Law and Conveyancing DR & L Print and Pub Services, Accra, Ghana.
- De Soto, H. 2000. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York: Basic Books
- Dickerman C., G. Barnes, J. Bruce, J. Green, G. Myers, R. Polishuk, D. Stienbarger and Sund, A. 1989. Security of Tenure and Land Registration in Africa: Literature Review and Synthesis. LTC 137
- Government of Ghana. 1992. *The Fourth Republican Constitution of Ghana*. Accra: Ghana Government of Ghana: Land Title Registration Law, 1986, (P.N.D.C.L. 152)
- Hammond F. and R. T. Abdulai. 2011. *The Costs of Land Registration in Ghana (Countries, Regional Studies, Trading Blocks, Unions, World Organisations)*. Hauppauge, NY: Nova Science Publishers.
- Jacoby, H. and B. Minten. 2007. Is Land Titling in Sub-Saharan Africa Cost-Effective? Evidence from Madagascar. *The World Bank Economic Review* 21.3: 461-85.
- Joireman, S. F. 2006. Applying Property Rights Theory to Africa: The consequences of formalizing informal land rights. Department of Politics and International Relations. A paper prepared for the 2006 meeting of the International Society for New Institutional Economics in Boulder, Colorado
- Kanji, R., L. Cotula, T. Hilhorst, C. Toulmin and W. Witten 2005. Can land registration serve poor and marginalized Groups? Research Summary report 1

Kuntu-Mensah, P. 2006. On the Implementation of Land Title Registration in Ghana 5th FIG Regional Conference Accra, Ghana, March 8-11, 2006

Land Administration Project 2003: Inception Report

Land Administration Project, 2009: Annual Report of the Monitoring and Evaluation Unit of the Land Administration Project, Ministry of Land and Natural Resources, Ghana

Land Administration Project, 2012: Masdar, LAP Final Report for Workshop

Odame Larbi, W. 2012. Towards a Credible and Effective Land Registration System: Lessons from Systematic Land Titling Pilot Project in Ghana. Access from http://www.landandpoverty.com/agenda/pdfs/ppt/larbi_powerpoint.pdf

Osabu-Kle, D.T. undated. The Ga People and the Homowo Festival. Accessed from <http://carleton.ca/africanstudies/wp-content/uploads/Ga-People-and-Homowo-Festival.pdf>

Owusu, G. 2008. Urban Growth and Changing Land Access and Rights in Peri-Urban Areas of Ghana Largest Metropolises, Accra and Kumasi, African Population Studies 23, pp. 253-281.

Payne, G., Durand-Lasserve, A. & Rakodi, C. 2009. Social and Economic Impacts of Land Titling Programmes in Urban and Peri-Urban Areas: International Experience and Case Studies of Senegal and South Africa, Oslo and Stockholm: SIDA and Norwegian Ministry of Foreign Affairs.

Platteau, J. 1996. The Evolutionary Theory of Land Rights as Applied to Sub-Saharan Africa: A Critical Assessment. Journal of Development and Change, Vol. 27-1. Blackwell Publishing Ltd

Roux, L. 2013. Land Registration Use: Sales in a State-Subsidised Housing Estate in South Africa. Doctoral Dissertation, University of Calgary <http://www.geomatics.ucalgary.ca/graduatetheses>

Sittie, R. 2006. Land Title Registration. The Ghanaian Experience Presented at XXIII FIG Congress "Shaping the Change" (Munich, Germany).

Toulmin C. 2008. Securing Land and Property Rights in Sub-Saharan Africa: The role of Local Institutions. Land Use Policy 26 10-19

BIOGRAPHICAL NOTES

Rita Esinu Sewornu is a Ghanaian PhD candidate at the University of Calgary's Interdisciplinary Graduate Program (Geomatics Engineering and Property Law). Rita holds an MSc degree in Land management and Land tenure and a BSc degree in Land Economy from Technical University of Munich, Germany and Kwame Nkrumah University of Science and Technology, Ghana respectively. Her research interests include customary land tenure and governance, land law and land policy, cadastral systems and women's land rights.

Dr. Michael Barry is a full professor and holds the Chair in Land Tenure and Cadastral Systems in the Geomatics Engineering Department at the University of Calgary. His research interests are in land tenure, cadastral systems, and land registration effectiveness. He has worked in the field as a land surveyor, consulted, or done field research, in South Africa, Canada, Botswana, Ghana, Iraq, Indonesia, The Netherlands, Nigeria, The Philippines, Somaliland, Malawi, Lesotho, Swaziland, Zambia and Zimbabwe.

CONTACTS

Rita Esinu Sewornu (MSc, BSc)
University of Calgary
2500 University Dr NW
Calgary AB T2N 1N4
CANADA
Tel: +1 403 402 7176
Email: reseworn@ucalgary.ca; ritesinu@gmail.com

Prof. Michael Barry
Department of Geomatics Engineering
The University of Calgary
2500 University Dr NW
Calgary AB T2N 1N4
CANADA
Tel: +1 403 220 5826
Fax: +1 403 284 1980
Email; mbarry@ucalgary.ca

Securing Land Transactions in Dansoman, Accra (7572)
Rita Sewornu (Ghana) and Michael Barry (Canada)

FIG Working Week 2015
From the Wisdom of the Ages to the Challenges of the Modern World
Sofia, Bulgaria, 17-21 May 2015