

Property rights

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Land is the most important asset in an economy, and in most cases is combined with capital. The basis for considering land as an asset rests on the system of land titles whereby an efficient land title system ensures prompt and secure transfer of property rights and reduces overall transaction costs.

Conceptualizing the importance of land in an economy is important from the perspective of investment generation since economic activities are to be carried out on land – commercial, residential and agricultural. Countless reports cite the importance of well-defined property rights in investment generation.

Unfortunately, this efficient mechanism underpinning land as an asset to generate economic activity is absent in Pakistan, primarily due to the absence of secure land titles. Insecurity leads to uncertainty in the utilization of land-based assets, and this uncertainty further increases the risk and repels investment in land.

Thus, the contemporary system of land titles in Pakistan slows the redistribution of wealth, increases unnecessary litigation, creates a hostile environment for investment and affects economic growth.

The title of property is only valid if there is clear proof of devolution and clear description of the property and possession of the land in question. In Pakistan, verification of the title is carried out by the buyer on its own, with no assurance from the state. Grievance redressal forums – courts – come in action only in case of dispute. Hence, concealment of information at the time of conveyance is possible by the party with more information owing to various departments for record keeping, ultimately using it for self-advantage and giving rise to the problem of information asymmetry.

In the case of dispute in the title of land, verification of the property through the proof of devolution in the courts remains a difficult task. This is due to the use of the traditional paper-based record system, which lies with various government departments. Therefore, matters related to land are often prolonged, creating backlog, affecting the efficiency of the courts and imposing an opportunity cost both on the judicial system in terms of time and on land as in most cases it stays idle, constraining investments and growth in the process.

This complex nature of the land title system adds costs in the shape of information and time costs, and above all, the need to verify the record from various departments leaves room for third party intrusion. In most cases, due to the lack of integration among departments, the records are outdated. All of the above-mentioned issues arise due to the deed registration system. At present, instruments like transfer deeds, mutation, etc are to be registered instead of the transition of title to land in absolute terms.

All these problems can be eliminated if government-backed security through transparency in the land title system is provided. Title security means a person or individual cannot be stripped off his/her title unless done voluntarily or as a personal act. The property right of the person cannot be modified against his/her personal will. A system or procedure that offers us guidance in this regard is the Torrens title of land registration.

In the Torrens title system, the right to property is transferred through transfer of title, rather than registering a transfer deed. When the transfer takes place through the mere registration of deed, the registration just acts as an assurance to the deed. Whereas when a transfer of title takes place in the Torrens system, the title is registered in a public office, adding state warranty to the title.

The existence of public registers also acts as an institution and adds the element of trust to all parties involved in such transactions, which also acts as a warranty in case of any fraudulent activities.

Through the adoption of the Torrens system – also suggested by PIDE – the need for verification through visiting various departments will be eliminated, as no proof of devolution will be required during conveyance, since the title certificate contains all the required information.

The contemporary revenue extractive conveyance model through various duties and taxes is obsolete and needs immediate replacement. Through valuation of property at market rate for property taxation and well-defined property rights, the revenue collection from land will be mammoth.

The Torrens system will also by default assist the state in constructing a centralized computerized record of land titles in Pakistan, eliminating unnecessary litigation. Above all, clear titles will increase the confidence of foreign and local investors along with paving the way for mortgage financing to grow.

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