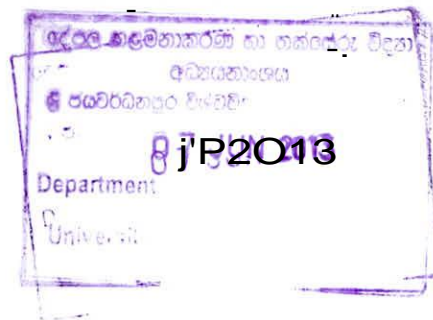


**An Analysis of Current Status of Bimsaviya
Cadastral Program on Resolving Land Title Issues in
Sri Lanka**

**Dissertation Submitted to the
University of Sri Jayewardenepura
as a Partial Fulfillment for the
Requirements of the Final Examination of the
M.Sc. in Real Estate Management and Valuation Degree**



Full Name : Udugama Koralage Roshan Thakshila Udugama
Examination No : RREMV/58
Registration No : GS/M.Sc./REMV/3410/08
Department : Department of Estate Management and Valuation
University : University of Sri Jayewardenepura
Date of Submission : 28/04/2013

Student's Declaration

The work described in this dissertation was carried out under the supervision of Mrs. N.C.Wickramarachchi and any report on this has not been submitted in whole or in part to any University or any other institute for another degree /examination or any other purpose.

.....

Full Name : Udugama Koralage Roshan Thakshila Udugama
Examination No : REMV/58
Registration No : GS/M.Sc./REMV/3410/08
Department : Department of Estate Management and Valuation
University : University of Sri Jayewardenepura
Date of Submission : 28.04.2013

Supervisor's Declaration

Hereby, I certify that Mr.Udugama Koralage Roshan Thakshila Udugama (Registration No: GS/M.Sc./REMV/3410/08) duly completed the research titled "An Analysis of current status of Bimsaviya Cadastral Program on resolving Land Title Issues in Sri Lanka" under my supervision and recommended to submit for the evaluation.



.....
Signature of the Supervisor



.....
Signature of the 2nd examiner

.....

Signature and the official stamp of the Head

Acknowledgement

I do hereby acknowledge the very generous help and valuable guidance received from my supervisor Mrs.N.C.Wickramarachchi (Senior Lecturer, Department of Estate Management and Valuation). Words are inadequate to express my deepest gratitude to her excellent academic encouragement and wonderful kindness.

I am grateful to my “Research Methods for Management” lecturers, Senior Professor H.H.D.N.P.Opatha and Professor R.G.Ariyawansa (Department of Estate Management and Valuation) for their contribution in laying foundation for researching.

I wish to extend my special thanks to Mrs. Delipa Wedage (Senior Lecturer, Department of Decision Sciences) for giving valuable advices in data analyzing. This work was immensely benefited by the continents and suggestions offered by Mr P.C.Kaluthantri and Mrs. P.G.U.P. Perera (Senior Lecturer, Department of Estate Management and Valuation), for their invaluable guidance throughout the process of the dissertation. My special thanks go to Mr.W.H.T.Gunawardhana (Tutor, Department of Estate Management and Valuation) and for his guidance in statistical analysis.

I express my gratitude to Mr.P.M.P.Udayakantha (Senior Assistant Secretary, Bimsaviya), Mrs.A.L.S.C.Werasinghe(Survey Coordinator-Bimsaviya & Deputy Surveyor General-Title Registration), Mr.K.R.Sarath (Senior Superintendent of Surveys-Title Registration) and Mrs.H.P.J.P.Wijesiriwardena (Asst. Commissioner-Title Settlement, Divulapitiya) for their valuable contribution of supplying data, relevant literature, advices and continuous support throughout the dissertation. Specially, I express my sincere thanks to Mrs. E.G.K.Fernando (Superintendent of Surveys), for every support given me during the study period.

I would like to take this opportunity to thank all the resource persons and friends who contributed in participating interviews for primary data collection and without your help it had not been successful this research work.

My sincere thanks go to parents, my friends, staff members of the Department of Estate Management and Valuation, University of Sri Jayewardanepura for their wonderful support given to fulfill my task successfully. I must thank my beloved wife Ishanka, son Thisula and daughters Januli and Methuki for their encouragement during my studies.

Finally I would like to remember all the persons whose names are not mentioned here but contributed in many ways for the dissertation. Thank you.

Abstract

The Land Title Registration System has been introduced by The Government of Sri Lanka as a solution for land related issues. This program was initiated in 1996 and by 2011 it has been implemented over 20 Divisional Secretary Divisions in 12 districts. The title registration was become a national program in 2007 and renamed as “Bimsaviya”. One of the three main objectives of Bimasviya cadastre program is “settling or making arrangements to settle the ownership of the lands which are presently unsettled”. When considered the reports outcome of the program was identified as below average.

The main objective of this research has been focused on to analyze the current status of the Bimsaviya Cadastral Program on Resolving Land Title Issues in Sri Lanka. As such the the data was collected through primary and secondary sources. To identify the contributory factors on the failure of the program data was collected from sixty professionals in executive level though a questionnaire. And the results were compared with ten professionals in decision making level though face to face interviews to obtain their views.

In so doing, some of the issues relevant to the design and evaluation of titling programmes will be identified. In this research it has been focused on the current status of Bimsaviya Title Registration program using secondary data by analyzing the annual out come of the title certificates issuing process. The issues were identified and categorized into four aspects as Technical, Social, Administrative and Legal. The most significant issue was identified using tactical tests .Content analysis was done to get suggestions to upgrade the shortcomings of Bimsaviya Program and further researchable areas were reflected for future researches.

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CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Differences in initial conditions, development, strategies and stages have given rise to substantial difference in types and combinations of cadastral and land registration systems all over the world. Many countries in the third world as well as some highly developed ones like USA have weak and far from complete land information systems. Countries like Sweden may have basic real property register identifying the property and providing some descriptions of area, land use and the origin of the property.

The main objectives of land title registration are to protect property rights, to facilitate transactions in land, and to enable land to be used as collateral for a loan which should be simple, reliable, prompt, affordable and well suited to the society it serves. The importance of land title registration system has been largely identified since early stages.

As Larsson (1991) states that the early evidences regarding the development of title registration system can be found in Egypt and Rome where they need land documentation for taxation and other contributions to the state within the territories they occupied.

This proves that the title registration system has been established since human settlement development as early as Egypt and Rome period.

The experience of a number of countries shows that attempts to introduce a land title registration system will be unsuccessful unless that system is supported by appropriate legislation and institutions, as well as sufficient financial and human resources for its implementation and maintenance.

According to Williamson (2001), the Thailand Land Titling Project which began in 1984 is the largest land titling project implemented and said to be the most successful

project. Considering its experience, it shows that the basic factor of success behind this project was the appropriate legislation and institutions, as well as sufficient financial and human resources.

Sri Lanka also experiences the same as the other developing countries. Number of legalized attempts has been taken to secure the tenure in the country since by 1863. As a subsequent result there are various types of deeds that indicate the ownership of land that has added by crown grants, partition decrees, and government grants such as Swarnaboomi, Jayaboomi etc. At present there is a very few number of first class titles in the country (Wickramarachchi, 2005).

To overcome the shortcomings of deed registration system, title registration pilot program was established in 1996 which is more than the mere entry in a public register; it is an authentication of the ownership or a legal interest in parcel of land where the act of registration confirms transactions that confer, affect or terminate that ownership or interest (Perera,2010).

After realizing the factors affecting the land market Sri Lankan government enacted title registration into the legal system in 1998 under the Title Registration Act 21 of 1998. Presently, both deed recording system and title registration systems are practicing in Sri Lanka. A system of deeds recording gives publicity to land transactions and helps to prevent concealed dealings. The act of recording a deed gives notice to the public of a claimed interest in land, and it also establishes a priority against other possible claimants to the same interest. It usually offers insufficient information to identify areas and extent of private and public lands. Not only does this deficiency affect the convincing process; it leads to uncertainties of ownership, boundary disputes, unlawful occupancy, and the lack of a national, regional or local land inventory for resource planning and fiscal purposes (Bimsaviya,2011).

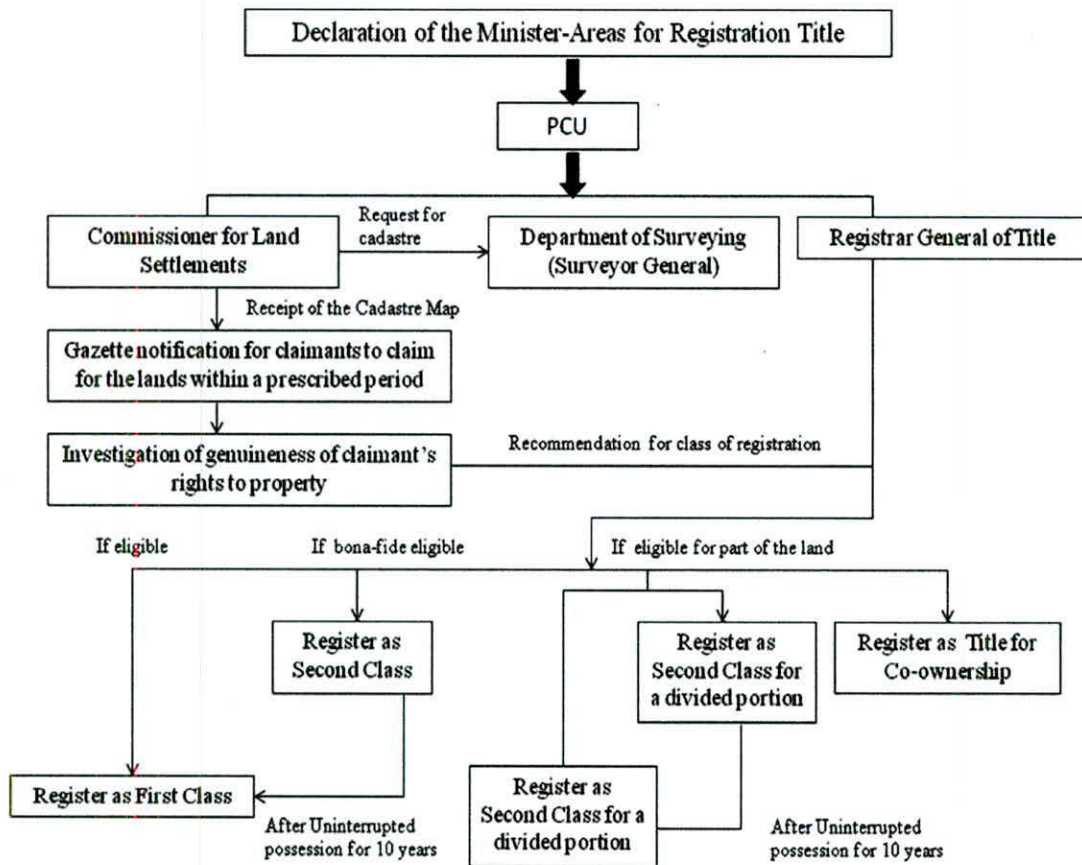
By considering these factors the initial Title Registration pilot projects were commenced at Divlapitiya, Balangoda and Udapalatha Divisional Secretary Divisions in 1996. The title registration program was renamed as 'BIMSAVIYA' in 2007 and launched to a new development approach based on the land by establishing the ownership of land, utilization of land by resolving land-related problems, to reach

new vista in the management and planning of land use through the establishment of a computerized land registration system in order to achieve accelerated development in the country. As such, the program has expanded to 20 Divisional Secretary Divisions (DSD) in 12 districts by 2011. The main government departments involved in this process are Land Settlement Department, Survey Department, Register General's Department and Land Commissioner General's Department.

Title certificate issued under "Bimsaviya" Program aimed to carry advantages such as; the Government Guarantee to ownership, preparing plan free of charge, a diagram of the land is shown on title Certificate along with the extent, re-Surveying will not be necessary as Survey Department guarantee the Survey, a copy of plan can be obtained in any time from Survey Department, verifying information in ownership easily, saving time and money contrary to dealing with deeds, land can be used as an investment more effectively, frauds in land transactions are minimized and in buying or mortgaging a land details regarding land and ownership can be investigated conveniently.

In fact the objectives of the implemented program can be hardly achieved without properly answering the incorporated issues around the program. As indicated in Figure 1.1, it seems, only the clear title that which register as first class after investigation of claimant's right to property are eligible for above mentioned benefits. If the claimant's is bona-fide eligible or eligible for part of land registers as second class and after uninterrupted usage ten years only they register as first class for divided portion. If the claimants are eligible as co owners, they are entitling for title of co ownership. The time frame for the registration of clear titles even takes more than six months due to the various institutional and legal constrains.

Fig1.1- Procedure for Land Title Registration in Sri Lanka



In case of dispute nature of claims the CTS may refer such case to the District Court having jurisdiction over the area.

Source: Perera,2010

Finding solutions for lands, having unclear titles are not answered neither deed registration nor title registration system. More than 50% of land in Sri Lanka comes under unclear titles from privately owned properties. Therefore, improving the Land Registration System that can effectively define property rights and clear titles within short time span is a significant factor for the socio economic development of the country. In such situation benefits of title registration cannot be efficiently and effectively accrue under the present institutional, administrative and legal context.