

Land Transactions and Emerging Issues Since Land Titling Commenced

*The Analyzing Development Issues (ADI) Project of the Cooperation Committee for Cambodia (CCC) in collaboration with the Land Information Centre (LIC) of the NGO Forum on Cambodia examines land transactions and emerging issues since land titling commenced in two sangkat of Prey Nup District, Sihanoukville Municipality.**

Introduction

Following the passage of the 2001 Land Law, the Ministry of Land Management, Urban Planning and Construction (MLMUPC) initiated a Land Management and Administration Project (LMAP) in 2002. LMAP aims to improve land tenure security, strengthen land administration systems, and promote the development of efficient land markets. Assisted by the World Bank, GTZ (German Agency for Technical Cooperation), and FINNMAP (a private Finnish company contracted by the Finnish Government) LMAP supports a systematic land titling program in Cambodia to contribute to poverty reduction. In September 2007, MLMUPC reported that one million land titles had been issued under LMAP.¹ This article examines land transactions and emerging issues since land titling in two *sangkat*² of Prey Nup District, Sihanoukville Municipality, specifically in the areas of land ownership, land sales, land transfer processes, access to credit, and security of land tenure.

Land titling programs are based on the assumption that improved property rights over land assets have a positive effect on the use and productivity of those assets. The LMAP Baseline Survey Project in rural areas undertaken by the Cambodia Development Resource Institute (CDRI) in 2004 was guided by several key

hypotheses: 1) land markets: as land values increase and transaction costs decrease, land markets will direct land use toward more economically efficient uses; 2) land administration: a greater percentage of transactions such as sales and inheritance will be facilitated through the official registry; 3) access to credit: people will use land titles as collateral with which to obtain credit from formal lending institutions; and 4) disputes: secure land titles will reduce the volume and frequency of land disputes (Ballard and So 2004). The research undertaken for this article was similarly informed by this broad theoretical framework.

Research Methods

The field research for the study was undertaken in May and June 2007 in Prey Nup and Teuk Laak *sangkat* in Prey Nup District, Sihanoukville Municipality. Prey Nup *sangkat* is located along National Road 4, south of Prey Nup district center on the way to Sihanoukville. Teuk Laak *sangkat* is located along National Road 3, east of Prey Nup district center on the way to Kampong Speu province. While Prey Nup *sangkat* was affected by economic growth along National Road 4, Teuk Laak *sangkat* was rather isolated until the improvement of National Road 3 in the new millennium.

The research employed quantitative and qualitative methods. Overall, 130 households were surveyed in the Prey Nup *sangkat* villages of Prey Nup 2 and Bot Se Moan, while 134 households were surveyed in the Teuk Laak *sangkat* villages of Tuol and Kampong Smach Touch.³ The survey was administered purposively to households that currently owned at least one agricultural plot titled under LMAP. In addition to the survey questionnaire, focus group interviews were convened with villagers from the four research sites. Key informant interviews were also undertaken with selected village land sellers and buyers. Key informant interviews were likewise conducted with MLMUPC staff in Phnom Penh and municipal staff in Sihanoukville.

Ownership of Agricultural Plots Titled Under LMAP⁴

In Prey Nup *sangkat* 91 percent of all the agricultural plots owned by the households surveyed were titled under LMAP, while in Teuk Laak *sangkat* 93 percent of all agricultural plots owned by the households surveyed were similarly titled. Since large landholders in both *sangkat* owned a disproportionate share of the agricultural land this meant that they benefited more from land titling than the small landholders.⁵ For example, in Prey Nup *sangkat* households with one hectare or more of LMAP titled agricultural holdings made up 54 percent of the sample but owned 83 percent of the LMAP titled land. Similarly, households in Prey Nup with two or more hectares of LMAP titled agricultural holdings made up

* This article is based on a study conducted in mid-2007 as part of an ADI advance course. The participant researchers are Doung Virorth and Chhay Pidor (CDRI), Sreng Phyrum and Chan Sarin (DPA), Thav Kimsan and Touch Setha (LICADHO), Mech Sokhan and Khan Chantharo (NGO Forum), Nuon Borin (LWF), Luy Bunthan (SCA), Kang Sovanna (Ponleur Kumar), Hort Seila (VI), Seng Vork (HRVC), Lok Vichet (CHED), Nhai Reth (Krom Apkhiwat Phum), and San Chey (KIND). The team researchers are Hep Sokhannaro and Megan MacInnes (LIC/NGO Forum), and Kung Seakly, Oeur II, Chhum Syrom, Khuon Chandore, and John McAndrew (ADI/CCC).

only 20 percent of the sample but owned 54 percent of the LMAP titled land. At the same time, the number and size of LMAP titled plots in Prey Nup increased from one landholding category to another.

In Teuk Laak *sangkat* large landholders who owned a disproportionate share of agricultural land also benefited more from land titling than the small landholders. For instance, in Teuk Laak households with one hectare or more of LMAP titled agricultural holdings made up 38 percent of the sample but owned 69 percent of the LMAP titled land. In like manner, households in Teuk Laak with two or more hectares of LMAP titled agricultural holdings made up only 10 percent of the sample but owned 33 percent of the LMAP titled land. Meanwhile, the number and size of LMAP titled plots in Teuk Laak, in all but one instance, steadily rose from one landholding category to another.

Land Sales From 1989 to Mid-2007

Land sales by respondents in the two *sangkat* were higher in the four and a half years since LMAP implementation than in the previous fourteen years combined. From 1989 (and the years before) through 2002, 56 plots of land were sold by 34 households from Prey Nup and Teuk Laak *sangkat*. By comparison, from the granting of LMAP titles in 2003 to the time of the research in mid-2007, 66 plots of land were sold by 51 households from the two *sangkat*.⁶ The latter included 59 plots with LMAP titles and seven plots without LMAP titles. A sharp increase in land sales by respondents from both *sangkat* was evident in the year 2006, indicating that the land market was robust and expanding (Figure 1).

Overall, land sales in the Prey Nup *sangkat* sample to 2006, with the exception of 1996, were greater than, or equal to, those in the Teuk Laak *sangkat* sample. In the years preceding LMAP from 1989 to 2002, 86 percent of the total plots sold were transacted by respondents from Prey Nup. In the LMAP era from 2003 to the research conducted in mid-2007, respondents from Prey Nup likewise transacted 61 percent of the total plots sold. These data reveal that land sales continued to be higher in the LMAP era among Prey Nup respondents, although proportionately the gap in land sales between respondents from the two *sangkat* had narrowed after LMAP. It is

Figure 1. Plots Sold by Respondents in Prey Nup and Teuk Laak From 1989 to Mid-2007

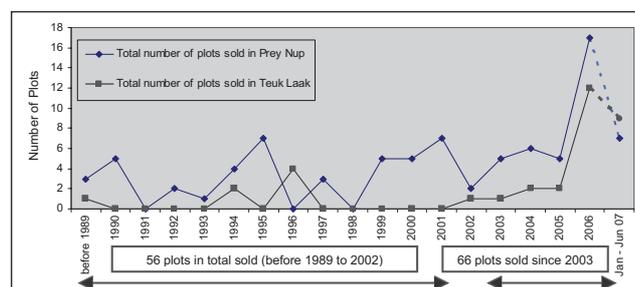


Table 1. Summary LMAP Titled Land Sold (2003 to Mid-2007), Prey Nup and Teuk Laak Sangkat, May–June 2007

	Prey Nup		Teuk Laak		Total
	Number	Percent of total	Number	Percent of total	
LMAP plots sold	37 plots	63	22 plots	37	59 plots
LMAP area sold	12.36 ha	74	4.24 ha	26	16.6 ha
Mean LMAP area sold	0.33 ha		0.19 ha		0.28 ha
Households who sold LMAP plots	24 hhs	55	20 hhs	45	44 hhs

notable that Teuk Laak respondents transacted 60 percent of the total plots sold in the first six months of 2007. This suggested that in 2007 land sales transacted by Teuk Laak respondents could be higher than those transacted by Prey Nup respondents. In the years before and after LMAP the buyers of plots sold by the Prey Nup and Teuk Laak respondents were primarily from the same village.

LMAP Land Sales From 2003 to Mid-2007

Since the awarding of titles in 2003, 17 percent of the LMAP recipient households surveyed sold LMAP titled plots. In Prey Nup *sangkat* 24, or 18 percent, of the household surveyed had sold LMAP titled plots from 2003 to mid 2007. By contrast, in Teuk Laak *sangkat* 20, or 15 percent, of the households interviewed had sold LMAP titled plots during these years.⁷ These rather similar figures with respect to household sellers belie the fact that a much larger area of LMAP titled land and a greater number of LMAP titled plots had been sold by Prey Nup respondents compared to Teuk Laak respondents (Table 1).

Compared to the years 1989 to 2002, land values in the LMAP era (2003 to mid-2007) skyrocketed in three of the four villages sampled. After LMAP average values of plots sold per hectare in the Prey Nup *sangkat* villages of Prey Nup 2 and Bot Se Moan rose by 323 percent and 19 percent respectively. Similarly, after LMAP average values of plots sold per hectare in the Teuk Laak *sangkat* villages of Tuol and Kampong Smach Touch increased by 2,313 percent and 448 percent respectively.⁸ Moreover, buyers from Sihanoukville town and Phnom Penh increased by more than 50 percent in the LMAP era. Anecdotal evidence indicated that buyers from outside the two *sangkat* preferred to buy plots with LMAP titles.

Reasons for Selling Land Before and After LMAP

By far the predominant reason given by households in Prey Nup and Teuk Laak *sangkat* for selling land both before and after LMAP was to pay health costs (Figure 2). In the years before LMAP (1989–2002) 48 percent of the plots sold were liquidated to raise cash for healthcare. Similarly, in the years after LMAP (2003 to mid-2007) 46 percent of the plots sold were disposed of to pay for health treatments.⁹ The frequency of selling land to buy

food, do other business, and for ceremonies was about the same in both time periods. However, in the years before LMAP a higher percentage of respondents sold land to buy other land, while in the years after LMAP a greater percentage sold land to pay off debts.

Land Transfer Processes

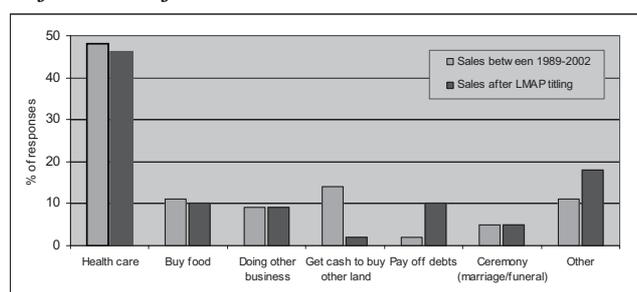
Respondents in Prey Nup and Teuk Laak *sangkat* transferred freehold and possession titles from one owner to another through a number of witnessing and notification procedures common throughout Cambodia. At times no documentation or notification papers were exchanged, with the money agreed upon by the parties, who were often relatives, neighbors, or friends.¹⁰ Not unexpectedly, the majority of sales before LMAP were transacted by making sales contracts with notification at village or commune levels. Less anticipated was the persistence of this practice after LMAP, with the majority of subsequent transfers still completed at local levels. A similar trend was evident with respect to plots purchased (Table 2).

LMAP intended to augment the use of the Land Registry but underestimated the resilience of local custom. The practice of transferring land with notification at village and commune levels was deeply embedded in the two *sangkat* researched. In June 2007 records in the Sihanoukville Municipal LMAP office revealed that subsequent transfers of only nine LMAP plots in the entire district of Prey Nup had been recorded by the Municipal Office and the names of the new owners legally updated on the Land Registry. The reason given by the majority of respondents for making sales contracts at local levels was that they thought it unnecessary to go further since they trusted one another. The avoidance of tax payments was scarcely mentioned as a reason.

Credit

By virtue of inclusion in this study's purposive sample, all 264 household respondents currently held an LMAP title for at least one plot of agricultural land. It was therefore extremely interesting to discover that 93 percent of all households surveyed in Prey Nup *sangkat* and 94 percent of all households surveyed in Teuk Laak *sangkat* had never used an LMAP title as collateral for a loan. This becomes more understandable when one considers that

Figure 2. Reasons Why Respondents Sold Their Land Before and After LMAP



group loans made by the microfinance institution AMRET predominated as the major source of cash loans among respondents in the two *sangkat*. AMRET group loans require group and village guarantees and not the security of individual assets such as land titles as collateral.

Evidently, the cash amounts received through the AMRET group loan program were sufficient for the needs of the households interviewed in the two *sangkat*. Individual loans from AMRET and the Aceda bank, which were usually of larger amounts and required collateral such as LMAP titles, were rare among the households surveyed.¹¹ As long as the AMRET group loan program continued to supply the credit requirements of the village borrowers the land titles they received under LMAP would do little to increase their access to credit or to alter their current credit practices.

Security of Land Tenure

In large measure the households surveyed felt that they had stronger security of tenure on their LMAP titled agricultural lands than they did on these lands before titling. These sentiments were voiced by 91 percent of the respondents in Prey Nup *sangkat* and 90 percent of the respondents in Teuk Laak *sangkat*.¹² Multiple reasons were given for the augmented sense of security. These reasons included having one's own name on the title, the Land Law's recognition of the title, the cadastral officials' signatures on the title, and the disposition of boundary and ownership disputes. Of the respondents in the two *sangkat* that held both LMAP titled agricultural land and non-titled agricultural land, 97 percent stated that their LMAP titled plots were more secure.

Conclusions

In the study areas of Prey Nup and Teuk Laak *sangkat* more than 90 percent of all agricultural plots owned by the households surveyed were titled under LMAP. This is a remarkable achievement. At the same time the inequality of landholdings among the title recipients meant that large landholders in both *sangkat* who owned a disproportionate share of land benefited more from land titling than small landholders. In this sense titling under LMAP reinforced patterns of landholding inequality at the same time that it strengthened property rights for all.

Land sales in the two *sangkat* were higher in the four and a half years since LMAP than in the previous fourteen years combined. This indicated that LMAP titling had indeed contributed to an active land market. While buyers from the same village continued to predominate both before and after LMAP, buyers from Shanoukville town and Phnom Penh doubled in the LMAP era. Land values also increased sharply following LMAP titling in three of the four villages studied. While higher land values benefited village sellers, households were not normally selling land to invest in productive pursuits. Indeed, close

Table 2. Land Transfer Processes on Land Sales and Purchases, Prey Nup and Teuk Laak Sangkat, May–June 2007

Changed name of ownership by:	Sales of plots before LMAP		Sales of LMAP titled plots		Plot purchases	
	#	%	#	%	#	%
Making sales contracts with notification at the village level	13	23	14	24	63	32
Making sales contracts with notification at the commune level	29	52	32	54	100	51
Making sales contracts with notification at the district level	2	4	---	---	---	---
Transfer of title at Sihanoukville Municipal LMAP Office	---	---	1	2	---	---
Making title at the Phnom Penh MLMUPC office	---	---	---	---	2	1
Other	12	21	12	20	29	15
	N=56 plots	N=59 plots	N=194 plots			

to half of the plots sold after LMAP were given up to raise funds for healthcare. Land sales after LMAP served mainly to provide cash in times of crisis, and to support subsistence needs.

After LMAP the majority of sales were still transacted by making sales contracts with notification at village and commune levels without processing the transfers through the Land Registry. Most villagers thought it unnecessary to go further since they trusted one another. To a large extent their experience confirmed this. Buyers from outside the villages did not normally require subsequent transfers to be processed through the Land Registry. Similarly, in Prey Nup district the AMRET microfinance institution and the Aceda bank accepted LMAP land titles with sales contracts and notification as collateral for loans even though they had not passed through the Land Registry. Until requirements became more strictly enforced, which was unlikely, or procedures were changed, the practice of making subsequent transfers “extra legally” would continue and ultimately threaten the viability of the systematic land titling program.

More than 90 percent of all households surveyed in the two *sangkat* had never used an LMAP title as collateral for a loan. As long as the AMRET group loan program continued to meet the credit needs of the village borrowers the land titles they received under LMAP would do little to augment their access to credit or to change their current credit practices.

A major benefit conferred through LMAP, voiced repeatedly by the vast majority of villagers interviewed, was the stronger tenure security on LMAP titled lands. Villagers were well aware of the pressures that could be brought to bear against them by speculators and developers and having ownership titles in their possession was a decided advantage. While LMAP titling did not immediately translate into poverty reduction for most of the recipients it did constitute a key component of a package of development interventions and reforms, including the provision of affordable and effective health care, with potential for moving people out of poverty and allowing them to share more equitably in economic growth.

Endnotes

1. This article makes reference to “LMAP titles” to denote cadastral land titles issued under LMAP.

2. A *sangkat* is the administrative unit in municipalities/cities that is equivalent to the khum or commune in provinces.
3. The survey questionnaire was based on the instrument used in the CDRI Baseline Survey Project (Ballard & So 2004).
4. The data, figures, and tables presented in the following sections are taken from the Cooperation Committee for Cambodia/NGO Forum on Cambodia study: *Land Titling and Poverty Reduction: A Study of Two Sangkat in Prey Nup District, Sihanoukville Municipality*, Analyzing Development Issues Team and Research Participants in collaboration with the Land Information Centre, November 2007.
5. Large landholders who owned a disproportionate share of the agricultural land gained more from land titling than small landholders through added value to property, increased collateral for obtaining formal credit, and security of tenure over larger land areas.
6. While land sales were higher in the LMAP era (2003 to mid-2007) than in the period preceding LMAP (1989–2002), a caveat to keep in mind was that the total area sold in the LMAP era was far smaller (20 hectares) than the total area sold in the years before LMAP (30 hectares).
7. In this and subsequent sections references to plots sold from 2003 to mid-2007 include only the 59 LMAP titled plots sold. The seven non-titled plots sold during the same period are not included.
8. Average values of plots sold per hectare in the years before (1989–2002) and after (2003 to mid-2007) LMAP increased in Prey Nup 2 village from US\$ 419 to US\$ 1,771, in Bot Se Moan village from US\$ 1,631 to US\$ 1,940, in Tuol village from US\$ 292 to US\$ 7,047 and in Kampong Smach Touch village from US\$ 161 to US\$ 883.
9. Ballard and So (2004) report healthcare as the reason given for the sale of 25 percent of the plots sold in the LMAP designated areas from 1989 to 2004.
10. Transfers made without documentation or notification papers account for many of the “other” responses in Table 2.
11. The AMRET microfinance institution and the Aceda bank both had branch offices in the Prey Nup District town.
12. Ballard and So (2004) report that 80 percent of the household respondents in the LMAP designated areas surveyed felt that security of tenure was the most important benefit to be gained from land titling.

References

- CDRI (2007), *Cambodia Land Titling Rural Baseline Survey Report* (Phnom Penh: Cambodia Development Resource Institute)