



Technical Report

ON THE FEASIBILITY OF USING LAND TAX DECLARATIONS TO SECURE BANK LOANS

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Preface

This report is the result of technical assistance provided by the Economic Modernization through Efficient Reforms and Governance Enhancement (EMERGE) Activity, under contract with the CARANA Corporation, Nathan Associates Inc. and The Peoples Group (TRG) to the United States Agency for International Development, Manila, Philippines (USAID/Philippines) (Contract No. AFP-I-00-00-03-00020 Delivery Order 800). The EMERGE Activity is intended to contribute towards the Government of the Republic of the Philippines (GRP) Medium Term Philippine Development Plan (MTPDP) and USAID/Philippines' Strategic Objective 2, "Investment Climate Less Constrained by Corruption and Poor Governance." The purpose of the activity is to provide technical assistance to support economic policy reforms that will cause sustainable economic growth and enhance the competitiveness of the Philippine economy by augmenting the efforts of Philippine pro-reform partners and stakeholders.

This technical report was written by Calixto Chikiamco, Property Rights Consultant, in August 2005, after 5 months of consultations. It was requested by National Economic Development Authority (NEDA) Director-General and Socio-economic Secretary Romulo L. Neri.

The views expressed and opinions contained in this publication are those of the author and are not necessarily those of USAID, the GRP, EMERGE or the latter's parent organizations.

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ON THE FEASIBILITY OF USING LAND TAX DECLARATIONS TO SECURE BANK LOANS

Background

This feasibility study grew out of the observation of the then Socio-economic Planning Secretary Romulo Neri of a large number of rural landowners and farmers who have no formal titles to their lands, except perhaps a tax declaration. Without formal titles to their property, rural landowners and farmers will have limited access to bank credit, thereby crimping their ability to boost rural economic activity and farm production.

This study also seeks to explore the various modes by which tax declarations may be made acceptable as bank collateral and the mechanisms by which the government can enhance the acceptability of tax declarations. In particular, the study weighs the advantages and disadvantages of setting up a government insurance corporation to secure bank creditors on loans against tax declarations in the absence of formal certificates of title like Transfer Certificates of Title (TCTs) or Original Certificates of Title (OCTs).

Nature of the Problem

Proof of ownership of a real property is normally evidenced by OCTs and TCTs. However, the process of obtaining formal titles to property is set forth in Presidential Decree 1529 (Property Registration Decree). It is fairly expensive. A landowner undergoes a fairly long, tedious, bureaucratic and judicial process. For a poor farmer in the rural areas, the process can be long and daunting. We will discuss this in more detail in a subsequent section, but suffice it to say that a large number of landowners and farmers have no evidentiary proof of ownership except a tax declaration.

What is a tax declaration? A tax declaration of real property is but a document used by tax authorities to determine how much a real property owner is to be assessed for the purpose of collection and payment of the real property tax under the Local Government Code of 1991.

A tax declaration is not a title, but merely a statement by an owner or administrator of real property declaring the true value of the property (current and fair market value of the property), a description of the property sufficient to enable the assessor to identify the same for assessment purposes, filed once every three years.

Although a tax declaration is not a title, a tax declaration is an evidence of the will to possess a property and that the holder had a claim of title over the same (Philippine Legal Dictionary, 3rd Edition). The presumption is that legal owners of the property file the tax declarations.

Tax declarations are used for the payment of the real property tax. However, in conjunction with other evidence, it may be used as a proof that a tax payer is the possessor and owner of the real property in question. It must be noted, however, that there are cases in which possession and ownership differ and that unlike a TCT or OCT, is not an absolute proof of ownership. Tax declarations, however, show that the tax payer has a claim over the property. In the absence of clean certificates of title, tax declarations show some, but not absolute proof of ownership of property.

How big is the problem? The problem can only be estimated because of a lack of a centralized data base on landownership and the unreliable state of land and survey records in various government agencies. The best estimate is made by the Land Management Administration Project (LAMP), which is funded by the World Bank and AusAid, which puts the percentage of land parcels that remain untitled at 50 percent, but could go as high as 60 percent. "It can also be seen that the well-known use of the land tax declaration certificate as a proxy for a title deed, is very extensive (24.2 Million less 13.2 Million or 11.1 Million parcels)," according to the Land Tenure Status Report of the LAMP.

Anecdotal evidence, however, also suggests that the problem is quite severe. Interviews with the Rural Bankers Association of the Philippines led by its President Senen Glorioso, a rural banker in Quezon, and other members of the association revealed that a significant number of farmers and lot owners in their areas of operation can only show tax declarations, rather than TCTs or OCTs. In Quezon, even some downtown areas in first class municipalities don't have titles, but only tax declarations. Provinces close to the Metromanila urban center like Batangas have many lands that are not yet titled but only have tax declarations as evidence of ownership. In Southern Tagalog, for example, of the total parcels of 4,274,366, the number of untitled parcels amount to 1,532,520. (Land Tenure Status Report-LAMP)

These lots, which are covered by no more than tax declarations as proof of claim of ownership, represent, in the words of author and Peruvian economist, Hernando de Soto to be "dead capital." Their owners, without formal title to their property, cannot access low cost credit from the formal banking system.

The Rural Bank Act of 1992 provides for situations wherein a bank may extend credit even without a Torrens title. Section 6 states that loans may be granted by rural banks on the security of lands without Torrens title where the owner of private property can show five years or more of peaceful, continuous and uninterrupted possession by owner, provided that when the corresponding titles are issued, the same shall be delivered to the Registry of Deeds of the province where such lands are situated for annotation of the encumbrance, provided also that the appraisal and verification of the status of a land is a full responsibility of the rural bank and any loan granted on any land which shall be found later to be within the forest zone shall be for the sole account of the rural bank.

Indeed, rural bankers have extended loans against tax declarations when they are reasonably sure of the claim of the filer of the tax declaration. Familiarity and knowledge of their farmer clients have enabled rural banks to have the confidence to extend loans without the security of Torrens titles, as contemplated in the Rural Bank Act of 1992.

However, according to former Land Bank President Margarito Teves, now Secretary of Finance, the 1997 Asian Financial Crisis led the Bangko Sentral ng Pilipinas (BSP) to tighten lending standards for all banks.

Whereas previously the Bangko Sentral would allow rediscounting of loans secured against tax declarations, this is no longer permitted, according to Director Rolando Agustin, Director of Credit of the Bangko Sentral ng Pilipinas. Abuses in the system, such as the use of tax declarations over disputed property and fake or unclean tax declarations forced the Bangko Sentral to stop rediscounting loans against tax declarations, thereby discouraging rural banks from doing so.

According to Director Agustin, the BSP is already encountering problems with transfer certificates and original certificates of title, such as loans secured against fake land titles, what more of tax declarations, which do not have a system of registration under the Register of Deeds?

The nature of the issuance of the tax declaration leads to the diminished integrity of tax declarations as proof of ownership of the land. The assessor of the local government unit is tasked with accepting real property tax payments. He is tasked with increasing revenues for the local government unit, not to check on the veracity of the claim of the taxpayer. Therefore, it is highly probable that the local government will accept tax payments from different persons over the same property. It is also highly probable that unscrupulous elements may pay taxes over large tracts of land over which he does not occupy merely to stake a claim over the area or to secure loans against it.

Problems in land titling and the process of conversion

Given this situation, it would seem that rural farmers and lot owners would have no choice but to convert their tax declarations into land titles. However, the process can be daunting and expensive for the ordinary farmer.

Presidential Decree 1529 (Property Registration Decree) states the process of converting a tax declaration into a title. The process involves judicial determination and decision as the filing for registration of title to land must be done with the Regional Trial Court.

Under PD 1529, any of the following may file for an application:

- a) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945 or earlier.
- b) Those who have acquired ownership of private lands by prescription under the provisions of existing laws
- c) Those who have acquired ownership of private lands or abandoned river beds by right of accession or accretion under existing laws
- d) Those who have acquired ownership of land in any other manner provided by law.

The Property Registration decree requires that all applications must be in writing and sworn to before an officer authorized to administer oaths for the province or city where the application must be filed.

Aside from the written application, the applicant must attach his muniments of title (documents showing his possession or ownership of the land) and a survey plan approved by the Bureau of Lands (now Land Management Bureau). The applicant must also furnish the Director of Lands with a copy of the application, proof of which must be shown to the Clerk of Court upon filing.

Having filed the petition, the applicant must undergo the following process as outlined in Presidential Decree 1529:

- a) The applicant files the petition with the proper RTC having jurisdiction over the property.
- b) After the application is filed, the court shall issue an order setting a date and time of initial hearing. The hearing date must be between 45-90 days from application.
- c) The abovementioned order shall also be furnished the Commissioner of Lands. The Commissioner, upon receipt of the order shall be required to give notice to all persons who have an interest through publication, mailing and posting.
- d) The application may be opposed by any person claiming to have an interest and may file the corresponding opposition. Such opposition will be heard by the court as in ordinary cases.
- e) After hearing all the evidences of both parties or after the submission of the case for decision, the court shall see to it that the shall be disposed of (render a judgment) within 90 days.
- f) The court may refer the case to a referee who shall conduct hearings. His report, which must be submitted within 15 days after the last hearing, may be adopted, partially adopted or disregarded by the court.

- g) Judgment may be rendered in favor of the applicant after the court finds, through the evidence, that the applicant has sufficient title proper for registration.
- h) The judgment of the court shall be final after 30 days after the receipt by the applicant of the notice of judgment. Before the 30 day period lapses, the party adversely affected may appeal to the Court of Appeals or the Supreme Court as in ordinary actions.
- i) Once the judgment becomes final, the court shall order, within 15 days, the Commissioner of Lands to issue a Decree of Registration and the corresponding (Original) Certificate of Title.
- j) The Commissioner shall then cause to be prepared the Decree of Registration, the Original Certificate of Title and the duplicates of the OCT.
- k) The Commissioner shall then send the Original Certificate of Title and its duplicates to the Register of Deeds concerned for entry in his registration book.
- l) The Register of Deeds shall enter the title in his record book and shall number, date, sign and seal the said titles. The Original Certificate of Title shall take effect only upon the date of entry in the record book.
- m) Lastly, the Register of Deeds shall send notice to the applicant by mail to the registered owner that his Owner's Duplicate is ready for delivery to him upon payment of the required fees.

In terms of expense, the applicant's significant expenses involve: a) the survey plan, b) notarization, c) hiring of a lawyer, and d) payment of court, publication, and registration fees. These expenses are outside of the applicant's transportation and other costs involved in following up the application with the court, the Land Management Bureau, and other concerned agencies.

Cost of surveying can be quite prohibitive to rural farmers as the land survey requires hiring a qualified surveyor or geodetic engineer who will undertake a precise technical survey of the boundaries of the land. Survey costs have been identified by the LAMP as one of the costs that can be significantly reduced if done on a mass basis (to gain scale economies) and if the Department of Justice allows satellite mapping and other new technologies in place of detailed technical description of boundaries. As it was pointed out, in the rural areas, millimeter or centimeter variances will not matter much. Therefore satellite mapping can and should be accepted. However, such a ruling is still being awaited from the Department of Justice.

However, the most significant cost to the application is legal. An applicant farmer or lot owner must hire a lawyer who will represent him in all hearings and follow up the papers with the courts and agencies concerned. Disputes, such a duplication of claims to even part of the property, can delay judicial resolution for a number of years, adding to the applicant's legal costs.

An applicant landowner must also pay filing fees, based on the assessed value of the land. He must also pay for publication expenses since the law requires publication of hearing in the Official Gazette and in a newspaper of general circulation.

In addition to the survey costs, filing fees, legal and other above ground costs, the applicant must contend with bribery and other below ground costs. The land titling system is susceptible to delays because a) multiple government agencies under different departments are involved in the titling process, b) there's no central source of land information (boundaries, ownership, value, etc.) and c) it takes the courts long to conduct hearings and render judgment. Furthermore, the nature of judicial processes means that disputes, with no centralized source of land information, take very long to settle.

It's safe to assume that it will take years and plenty of money to undertake conversion of tax declaration to a title. Since the process involved is judicial, resolution of court hearings take time, more so if there's some dispute involved, as in overlapping of certain areas. According to LAMP, it takes an average of 33 months to convert a free patent to a registered title. However, conversion of a free patent to a title should be easier and faster as it's merely administrative and does not involve a judicial process. Therefore, the average duration of converting a tax declaration through the judicial process is longer.

Methods of Obtaining Title

Government issues titles to land in three ways: a) Ordinary Judicial Registration, b) Cadastral Proceedings, and c) Administrative Registration or Free Patent Application

Conversion of tax declaration into a land title falls under **judicial registration**. The process has been outlined previously, but basically the applicant files an application with the Regional Trial Court for issuance and registration of title.

The advantage of judicial registration is that once issued, the title should be undisputed. The lot owner holds a valid title that is registered with the Land Registration Authority. Another advantage of judicial registration is that it does not limit the size of the land to be registered, unlike in administrative registration or free patent application. It can also apply to all types of lands, whether residential, agricultural, or industrial.

The disadvantage is the cost and time involved. For many rural landowners, the cost can be prohibitive, since they have to pay for land surveys, court filing and publication fees, lawyer's fees, and title registration expenses.

Judicial registration often takes years, given the backlog of cases in the regional trial courts. If there's a dispute or problem related to the petition, the court must schedule hearings and would result in further delays.

Cadastral proceedings are also judicial in the sense that judicial courts are involved. However, it is initiated by the President of the Philippines by ordering the Director of the Bureau of Lands to make a cadastral survey of certain unregistered lands and to prepare the corresponding plans and technical descriptions.

The Director of the Land Management Bureau initiates the cadastral survey. After review and approval of the survey, he shall initiate, through the Solicitor General, original registration proceedings similar to the ordinary judicial registration.

The advantage of cadastral proceedings is that the government assumes all tasks related to judicial registration. The landowner merely waits for the outcome of the judgment of the court. The landowner does not have to hire the services of a surveyor or lawyer since the government assumes all the tasks and bears the costs.

The advantage of cadastral proceedings is that since it's the government that initiates and handles the process, it is presumed to be much faster than if a lone individual would initiate the process. Furthermore, the cost of survey can be reduced since the government will undertake cadastral proceedings over vast tracts of land. The cost of surveys can be spread out to a large number of lots. In other words, cadastral proceedings allow for mass titling or a large number of titles can be issued from just one court judgment.

Another advantage of the cadastral proceedings is that the process is judicial and therefore like in ordinary judicial registration, titling under cadastral proceedings can cover various types of land and is not limited in size.

The disadvantage to cadastral proceedings is that it would take an act of the President to initiate the process. Furthermore, even if an order by the President is given, the Land Management Bureau may not have the budget to undertake surveys and file the necessary documents in court. Bureaucratic procedures, like bidding out for the services of geodetic engineers, could impose a substantial delay in undertaking the surveys.

The third mode of the government to issue land titles is through **administrative legalization or free patent**. Farmers can obtain title to their unregistered land through an administrative process supervised by the Department of Environment and Natural Resources.

The process consists of the following:

1. The applicant files an application with the Community Environment and Natural Resources Officer (CENRO) with an attached affidavit of two disinterested witnesses and an approved survey plan and technical description of the land. Documentary proof of ownership of the land is also required.

2. Notices of application for free patent are given to interested parties.

3. Other documents required are a) final report of investigation and the land data records sheet, and b) proof of payment of real estate taxes. Payment of real estate taxes is required by law.
4. The CENRO conducts an investigation regarding the application, determining whether the land is suitable for disposition to the applicant
5. After investigation and upon favorable findings, the CENRO prepares approval of the application as well as the Free Patent document.
6. The CENRO transmits the favorable findings and free patent document to the Provincial Environment and Natural Resources Officer (PENRO) for signing for lands of 5 hectares and below. For lands more than 5 hectares but less than 10 hectares, to the Regional Executive Director (RED) and for more than 10 hectares up to a maximum of 12 hectares, to the Secretary of the Department of Environment and Natural Resources.
7. After required approvals, the patent is numbered and transmitted to the Register of Deeds.

The advantage of this method of obtaining title is that it's administrative, and not judicial, in nature. Theoretically, it should be faster, as protracted judicial hearings are dispensed with. There's no need for a landowner to pay for the cost of a lawyer. Patent applications may also be filed with the nearest DENR office.

The disadvantage of this mode is that being administrative, the title may be questioned later by other claimants. It is also subject to administrative delays and "under the table" transactions.

Another disadvantage to this method is that it applies only to agricultural land and is limited by law to only 12 hectares. Furthermore, the law requires payment of taxes, which is an additional burden that poor farmers cannot afford to pay. The law further limits the issuance of patents for those who show continuous possession for 30 years.

There are other special modes of obtaining land title, namely, through the Agrarian Reform Program (Certificate of Land Ownership Award) and the Sales Patent and the Homestead Patent. These modes are not relevant to this study and except for the agrarian reform program, do not represent a significant portion of land for conversion into titles.

It can thus be seen that there are many problems involving land administration and titling in the Philippines. There are many methods of obtaining title and different agencies are involved in the issuance of titles, leading to opportunities for the multiple issuance of titles over the same piece of property or duplicate claims over land. Because many agencies are involved, coordination can prove difficult since, for example, the Land Registration Authority is under the Department of Justice but the

Land Management Bureau is under the Department of Environment and Natural Resources.

Recommendations

It's not the purpose of this study to identify the entire gamut of problems involving land administration and land titling. That has already been done through studies done by the LAMP.

Rather, this study seeks to situate the problems involving general land management and titling within the overall objective of enhancing the bankability of untitled land as loan collateral, to determine if a short-term solution is feasible by way of a government insurance program, and to suggest possible long term solutions.

It is clear that the problem of agricultural lands without titles but merely tax declarations will persist for some time. Both high costs and long process involved in converting tax declarations into registered titles deter land owners from pursuing conversion.

It will take new legislation and institutional measures to rectify the sorry state of land registration and management in the country. In the meantime, many farmers cannot borrow from the banks by giving their tax declarations as collateral. Although the Rural Bank Act of 1992 authorizes rural banks to extend credits on the basis of tax declarations, the Bangko Sentral ng Pilipinas (BSP) has since discouraged the practice by refusing to rediscount loans against tax declarations. According to Director Rolando Agustin of the Department of Credit of the BSP, the BSP cannot rely on the integrity of tax declarations as credit collateral.

Government intervention in the form of an insurance corporation that will insure the loans secured by tax declarations may convince the BSP to permit rediscounting of such loans, thereby encouraging the rural banking system to extend credit to farmers with no proof of land ownership but tax declarations.

The government insurance corporation, however, may be exposed to the risks inherent in giving credit against tax declarations, the primary one being that the tax declaration is either spurious or worthless, since tax payments are accepted by the local government assessor without regard to proof of ownership.

To mitigate the risks, it is recommended that the insurance shall be selective. It shall be extended only to land parcels that have already undergone cadastral survey and mapping. These lands are one step short of having their lands titled and registered. Because these lands have already been surveyed and mapped by the Land Management Bureau, it is presumed that boundaries have been delineated and possession and ownership have been checked. Lands that have been surveyed and mapped have just to undergo the judicial process of hearings before titles are issued and registered.

On this basis, the insurance corporation may offer two products: credit insurance, similar to the insurance offered by the Home Insurance Guarantee Corporation. The insurance is extended on the loan. The other product is a form of title insurance, i.e. the insurance company guarantees the tax declaration would be registered and titled.

There are risks associated with both products, but it is recommended that the rural banks be made to share the risks. Credit insurance shall only be extended to a portion of the loan, so that the insurance corporation relies on the intimate knowledge of the rural bank to check on the repayment capacity of the borrower and the integrity of the documents he submits to the bank. On the other hand, the risks to the title insurance are significantly reduced when only those properties that have undergone cadastral surveys are accepted.

The beneficial effect of either forms of insurance is that it will permit the Bangko Sentral to allow rediscounting of agricultural loans against tax declarations again. Rediscounting will improve the liquidity of rural banks so as to increase their capacity to extend agricultural credit.

However, it must be pointed out that the government needs to review certain provisions of the Comprehensive Agrarian Reform Law that restricts the marketability of agricultural land, whether titled or only with tax declarations. The current law restricts the market for foreclosed agricultural land to qualified agrarian reform beneficiaries, who are often too poor to acquire foreclosed agricultural land.

It is also recommended that government address the entire gamut of problems affecting the land sector. Among other things, it should create a centralized data base of land ownership information. It should also widen and complete cadastral surveys for the purpose of registering and titling mass tracts of land. The other problems that have already been identified by the Land Administration and Management Project study, such as the need to have unified Land Code, the unification of all government departments involved in land administration under one agency, the adoption of new technologies for land surveys and mapping, and the need to reduce land transfer taxes also have to be addressed.

If the government can accelerate the process of conversion of tax declarations into registered titles, then the insurance corporation can be phased out eventually.

Summary Conclusions and Recommendations

This study sought to answer the following questions: 1. How big is the problem of rural landowners with no titles to their land except tax declarations? 2. Are tax declarations acceptable as bank collateral? 3. What can be done to enhance the acceptability of tax declarations as loan collateral? and relatedly, 4) What is the feasibility of setting up a government insurance corporation to enhance the acceptability of tax declarations as

loan collateral? 5. What can be done to accelerate the process of conversion of tax declarations into certificates of land titles? and 6. What can be done, relative to land rights, to increase the flow of loanable funds to the agricultural sector?

1. The problem of landowners having no titles to their land except tax declarations can only be estimated, as the government currently does not have specific data on the amount of land that has no title yet but tax declarations. However, a study by the Land Administration and Management Project (LAMP) funded by the World Bank and AusAid, estimates that about 40 to 50 percent of land parcels, excluding public lands and forests, in the Philippines is titled and registered, compared to countries like New Zealand and Singapore at 100 percent or Thailand at more than 60 percent. Of the total number of untitled land parcels, a significant number only has tax declarations. "It can also be seen that the well-known use of the land tax declaration certificate as a proxy for a title deed, is very extensive (24.2 Million less 13.2 Million or 11.1 Million parcels)," according to the Land Tenure Status Report of the LAMP.

However, this is but an estimate and may even be understated. According to Atty. Erwin Tiamson, Director of the Land Management Bureau, due to a faulty decentralization process that started in the early nineties, a significant number of government land survey and data records have been lost or neglected.

The view is echoed by LAMP: "The inability of DENR and LRA/ROD to provide basic land information on the legal cadastre should be a concern for government, business, and the public. The problem has been endemic for many decades and is not a technical or financial problem – it is institutional."

2. Tax declarations used to be acceptable as loan collateral and such is provided by the Rural Bank of 1992. However, since the Asian Financial Crisis of 1997, the Bangko Sentral ng Pilipinas (BSP) has tightened prudential regulations and has stopped rediscounting of loans against tax declarations, thereby signaling rural banks to stop lending against tax declarations.

3. There are significant risks to lending on the basis of tax declarations as security, or else the BSP would not have stopped the practice. The risks stem from the fact that ownership claims on the basis of tax declarations is still disputable, unlike in a titled property where presumably the courts have already resolved the disputes.

Furthermore, the current procedures lend themselves to possible abuses. Inasmuch as the local government assessor merely accepts the tax payment and is not required by law or administrative fiat to check the veracity of the ownership of the property whose tax is being paid for, cases arise or could arise that unscrupulous parties merely pay tax declarations to the local government assessor, and then turn around to secure loans against such spurious or invalid tax declarations.

Therefore, the risk to a government corporation insuring loans against tax declarations is that the tax declarations turn out to be spurious or disputable. In case of default, therefore, the tax declarations could turn out to be worthless.

4. Given the risks, is the feasibility of a government corporation insuring loans against tax declarations not possible? The study concludes that the project to enhance the acceptability of tax declarations as bank collateral is still feasible under the following conditions:

a) The government insurance corporation shall selectively insure loans against tax declarations. It shall confine itself to tax declarations with approved cadastral surveys. Those lands that have already undergone surveys and mapping will be less likely to be subject to a dispute. The Land Management Bureau has presumably established boundaries and talked with landowners in the area in line with its task of cadastral mapping.

Moreover, those lands with “parcellary” or cadastral mapping are closer to being registered unlike those lands with tax declarations but have yet to be surveyed by the Land Management Bureau. If the cadastral maps are complete, the Land Management Bureau Director can initiate original registration proceedings with the competent court.

Hence, the government insurance corporation can be fairly confident that lots with tax declarations and approved cadastral surveys are not spurious and are close to being registered.

b) The assessor can be administratively directed to annotate on the tax declaration that the land thereof has already undergone cadastral mapping.

c) The government insurance corporation can also instruct the rural banks to adopt strict lending procedures against land with tax declarations if the banks want to qualify such lands for its insurance. These strict lending procedures require that the rural bank undertake due diligence on the owner, including verifying his possession and occupation and determining possible disputes, if any, by talking with nearby landowners.

d) The insurance corporation can offer two products: a) a credit insurance, i.e. the loans secured by tax declarations, and b) a form of title insurance, wherein the government guarantees the integrity of the tax declaration, i.e. the tax declaration with cadastral survey is evidence of a valid claim that only needs a judicial decision to convert it into a title.

For the credit insurance, the government insurance corporation can mitigate risks by having a lower coverage ratio on the loan value of the land compared to those with registered titles. For example, if the market value of the land is PHP 100,000 per hectare, the loan collateral value for those with registered titles may be 50 percent, but for those with tax declarations but with cadastral mapping, the loan value may be

pegged at 25 percent. The insurance corporation can further control its risk by co-insuring with the rural bank, i.e. it will not cover the loan 100 percent, but at 70 or 80 percent. Thus, for a land worth PHP 100,000, the insurable value can be pegged at PHP 18,500.

While the amount relative to the land value may be small, it would still benefit the farmer-landowner as he does not have to resort to the “informal” market with its usurious rates or to try to qualify under the clean microlending program of rural banks where interest rates can go as high as 3 percent a month.

For the title insurance product, the risks can be controlled by government since those lands have already undergone a cadastral survey. Since in a cadastral survey the government assumes the responsibility of petitioning the court to issue titles for those surveyed lands, the process can be controlled by government.

5. The government must convince the Bangko Sentral to lift its present ban on rediscounting of rural bank’s loans against tax declarations, especially if the insurance program is in place. The ban has discouraged rural banks from extending more agricultural loans that used to be secured by tax declarations.

6. The government can also adopt administrative measures to curb possible abuses in the use of tax declarations. It can require all local government units to undertake a tax mapping, both as a means to increase property tax revenues and to help identify the property owners in their respective areas. It can make use of geographic information systems and satellite mapping technologies to help in the tax mapping. Government can also require the local government assessor to strictly follow a set of measures in handling property tax payments, such as requiring landowners to attach a sketch of their property boundaries when accepting tax payments, and also checking the veracity of the tax payments against the tax maps.

7. The government may also consider the establishment of special courts to facilitate resolution of cases involving issuance of titles. These courts are ordinary regional trial courts that have been specially designated by the Supreme Court to hear and dispose of cases involving title issuance and land claims.

8. The study does not, however, underplay the risks inherent in insuring tax declarations. Given that tax declarations can be made bankable with government insurance, the incentives for syndicates and unscrupulous parties to exploit the system increase. The local government assessor may, either through bribery or ignorance, issue multiple tax payments receipts over the same piece of property. Even the approved survey plan may be contrived. The core of the problem is that the government does not have a centralized data base of land information wherein land ownership or claims can be checked. Since land administration and record keeping has been decentralized, surveys and land records have been mishandled or lost. According to one Land Management official who refused to be named, one example is that when the air conditioning unit in one floor of his building conked out and the government did

not have the funds to repair the air conditioning unit, the microfilm records were rendered unusable. Without the records, it's very possible for an unscrupulous parties to make overlapping claims over previously surveyed land, which could lead to disputes and long years to resolve.

Nonetheless, the insurance system that is recommended relies on the due diligence and local knowledge of the local rural banker, who will share the risks with the insurance corporation.

9. The government may have to review certain provisions of the Comprehensive Agrarian Reform Law to encourage agricultural lending and make rural land more bankable. From an interview with Rural Bankers Association President Senen L. Glorioso and other rural bankers, the central problem for the rural bankers is not that they were not lending against tax declarations. They used to do so and were authorized by the Rural Bank Act of 1992. The problem arises when they foreclose on the land because whether titled or not, the Comprehensive Agrarian Reform Law limits the market for foreclosed agricultural land to qualified agrarian reform beneficiaries. It's the marketability of the collateral which is their primary concern since they would rather dispose of them quickly in order to be liquid rather than retain them.

10. One of the findings of this study is that the country's land titling and administration program is a mess and government should be properly alarmed by it. Lack of reliable data on land ownership, poor coordination and even conflicting actions by various government agencies concerned with land titling and land administration, the prohibitive cost of land transfer, and multiple opportunities for the issuance of fraudulent land titles are some of the numerous problems plaguing the land administration and titling sector. The result is that many landowners choose not to convert their tax declarations into titles either due to the prohibitive cost involved or the tedious process that they have to go through.

Due to these problems, the farmer landowner often has to resort to informal channels for credit, which are expensive. Furthermore, credit is restricted because credit extension is based on intimate knowledge by the local banker of the borrower's situation and capacity to pay. A market for these loans cannot be developed because standards and formal instruments of ownership are absent. The overall result is that agricultural production stagnates.

11. Despite the fact that the Philippines started the Torrens title system and cadastral surveys ahead of its Asian neighbors, it now lags behind in the percentage of land parcels that remain to be titled. A large percentage of land parcels, estimated to be as high as 50 percent, have no evidence of ownership except tax declarations.

However, this is but a symptom of a bigger problem involving land administration in general. Since a large portion of the citizens' wealth lies in land, it's short of criminal that government has not paid more attention to fixing the problems of property rights in land. Problems in property rights in land affect almost all sectors: banking, real estate,

agriculture, and industry. If even registered titles have no integrity and there's no centralized data base by which to check the authenticity of these titles, banks will be constrained in lending against them. Real estate development will also be skewed to those areas that are titled and with no duplicate titles over them.

Government's inattention to land documentation, land administration, and land transfer issues could easily spell over into social violence. Land grabbing and land usurpation could become more prevalent and lead to social and political tensions.

Furthermore, government should prioritize land property rights reform and land administration reform on the same plane as fiscal and other macroeconomic reforms. Reforming land property rights and land administration has the potential to unlock the vast wealth that is tied up in land, and therefore the government can solve its fiscal problems from the increased activity in the land sector. In Hong Kong, the government generates much of its fiscal revenue from the property sector, which accounts for 22 percent of GDP. In the Philippines, the real estate sector is estimated to be 5 percent and its share to GDP is falling.

However, land administration reforms are very doable. Unlike liberalization reforms, there are no powerful private vested interests that are blocking reform. Only criminal syndicates and affected bureaucracies are seen to be resisting the reform. These reforms can be win-win, with all sectors seen to be benefiting from reforms in land titling and land administration.

It is therefore recommended that the government address the problem of tax declarations being the evidence of land ownership rather than registered titles within the context of solving the entire gamut of problems affecting land registration, land administration, land transfer, and land property rights.