



Land Sharing in Phnom Penh: An Innovative but Insufficient Instrument of Secure Tenure for the Urban Poor

Expert Group Meeting on Secure Land Tenure:
“New Legal Frameworks and Tools for Asia & the Pacific”

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Land Sharing—Definition



Sengki (Bangkok), photo courtesy of Parinya

A negotiated agreement between landowner/developers and land occupants to partition and share a plot of land

- » Most commercially viable portion goes to landowner/developers to develop
- » Remaining portion is leased, sold or given to land occupants for legal occupation

Significance of Land Sharing

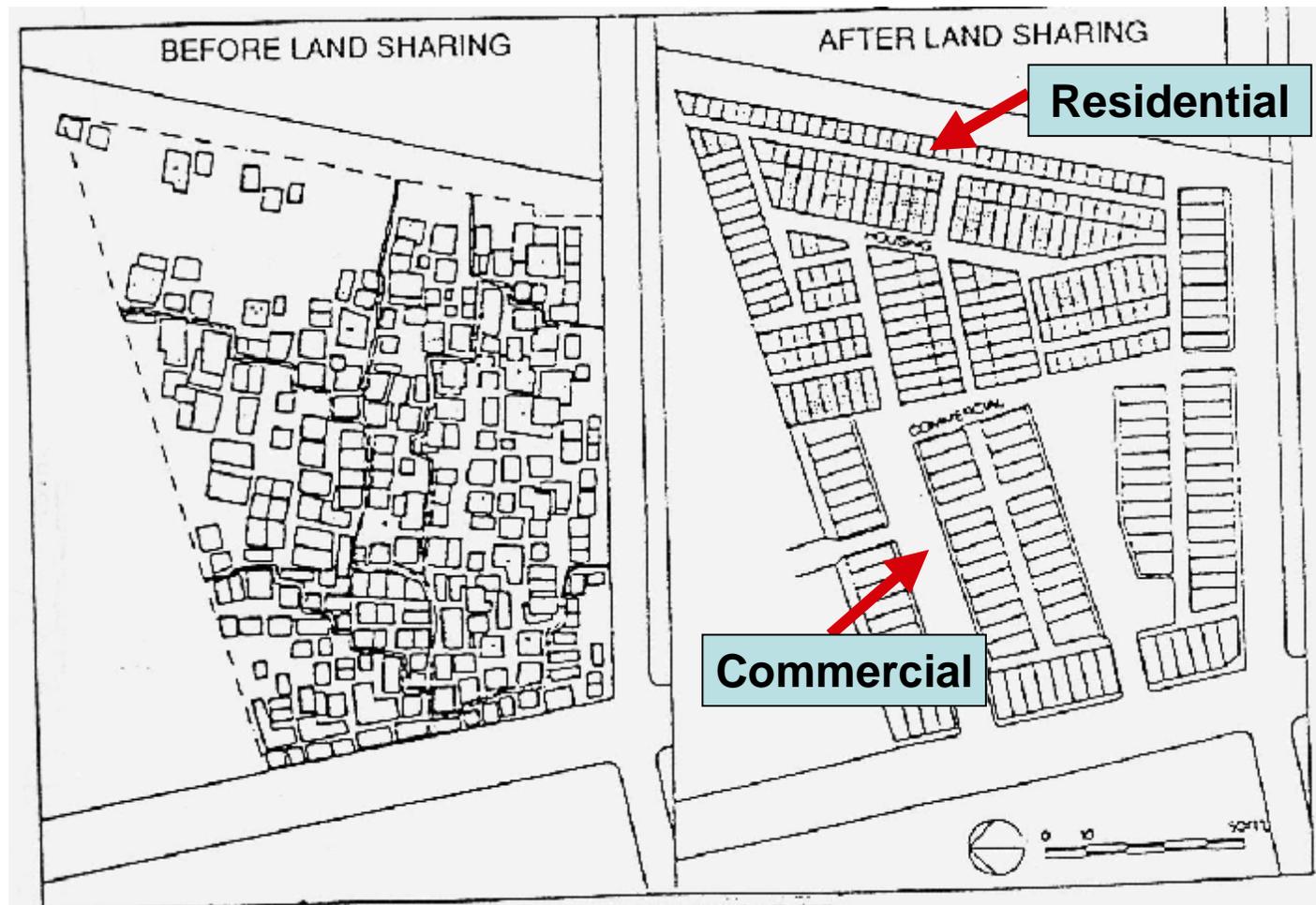
Land sharing as the “*only way in which the urban poor can gain formal access to land and security of tenure within a city without a substantial subsidy*”

(Yap Kioe-Sheng 1992)

Outline of the Presentation

- Land sharing
 - » Definition
 - » Principles
- Slum upgrading in Phnom Penh
- Guiding questions
- Pre-conditions for land sharing success
- Beyond land sharing
- Conclusion

Land Sharing—an Illustration



Land Sharing in Manangkasila area of Bangkok (1982)
Source: Archer, 1990.

Land Sharing—Basic Principles

Four basic principles of land sharing
(Yap Kioe-Sheng, 1992):

- 1. **Densification:** re-housing slum community on smaller plot of land***
- 2. **Reconstruction:** demolition of (some) existing structures and rebuilding at higher densities***
- 3. **Participation:** required during negotiations with landowner, allocation of new plots, demolition of existing structures, and reconstruction***
- 4. **Cross-subsidy:** minimizing external subsidies by ensuring that land price rise of commercial portion can cover deficit from community's inability to pay for land, housing and infrastructure***

Land Sharing: a “Win-Win-Win” Solution?

In principle, land sharing offers prospect of a **WIN-WIN-WIN solution** to slum upgrading and redevelopment, through **compromise**, not forced eviction :

For land occupants:

- Improved housing & living conditions
- The right to stay in the city (titles)

For developers:

- Access to land
- Right to develop in strategic locations

For public authorities:

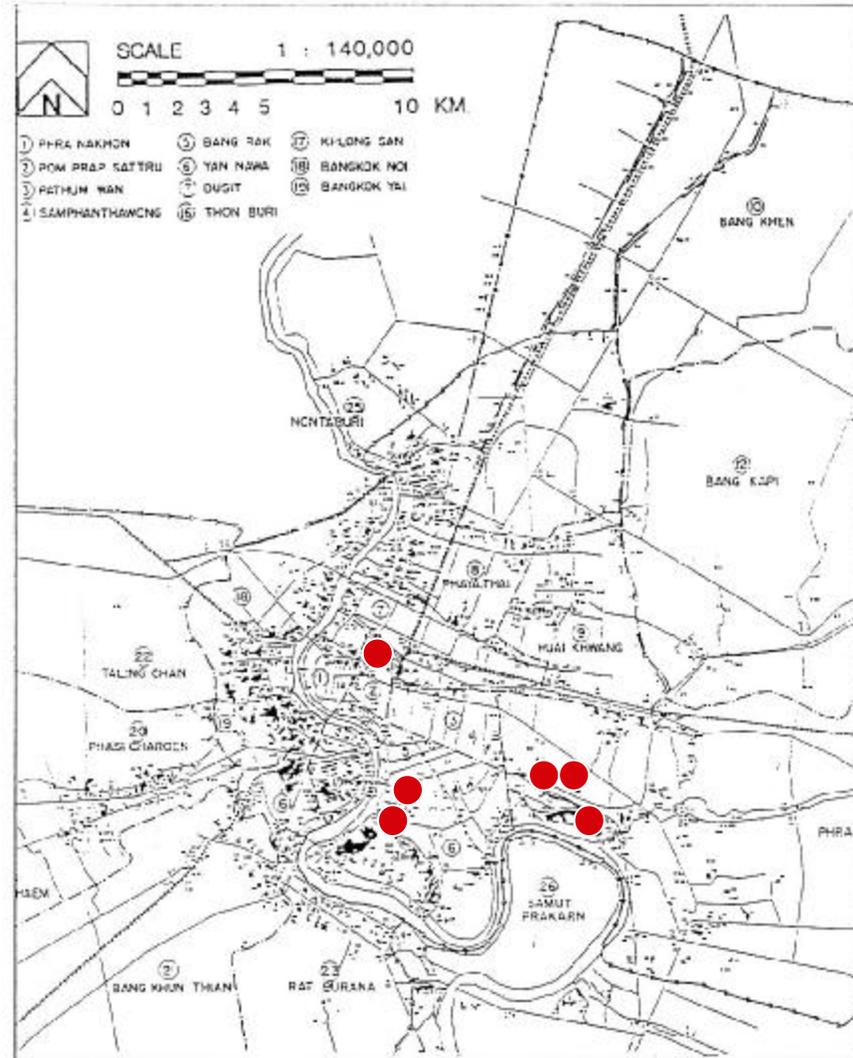
- Slum improvement
- No violence
- Private development

Land Sharing in Bangkok & Other Cities

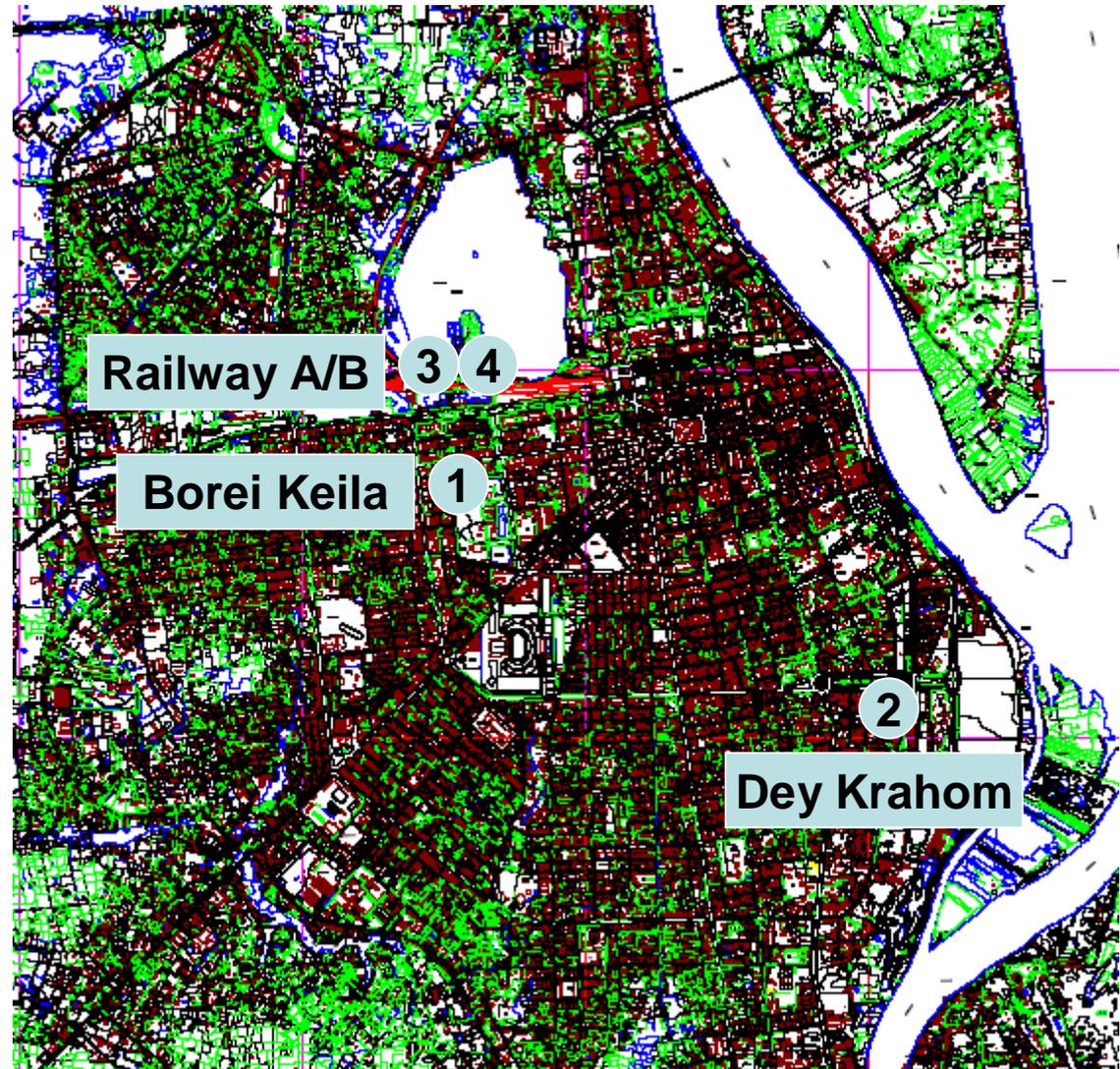
- At least 7 cases of land sharing in Bangkok from 1970s to early 1990s
- Now reappearing in *Baan Mankong* national slum upgrading program
- Other Asian cities
- Various forms of land “sharing” exist worldwide, on public and private land

Land Sharing sites in Bangkok (1970s-1990s)

Source: Archer, 1990.



Land Sharing in Phnom Penh (1)



The Phnom Penh Context

- Active land market
- 6% avg. economic growth
- Developers expanding
- City center properties “hot”

569 informal settlements

62,000 households

Land Sharing in Phnom Penh (2)

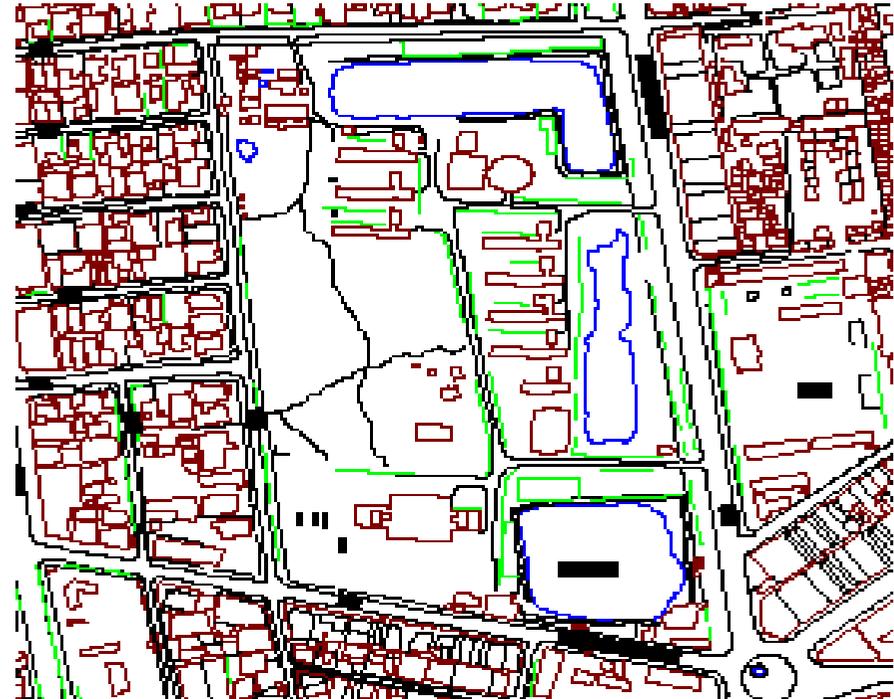
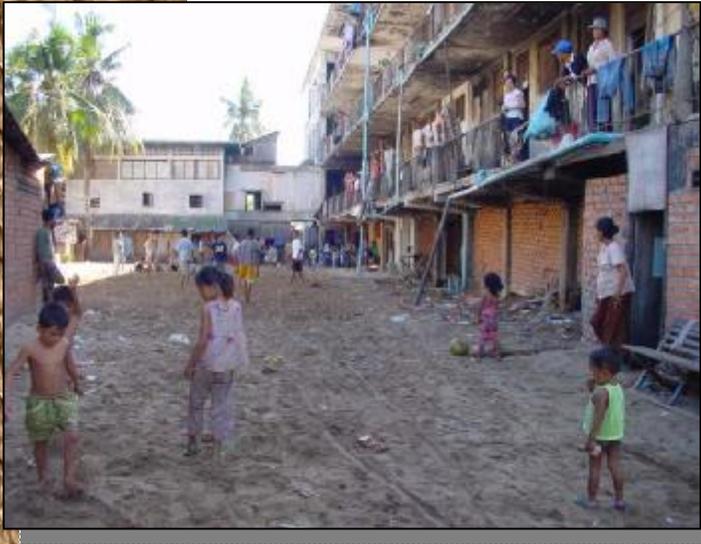


- Announcement of an upgrading program of informal settlements in Phnom Penh (May, 2003)
 - » 100 settlements per year for 5 years
 - » Land titles to be provided
- Political breakthrough after years of evictions
- Four pilot sites: chosen upgrading technique is land sharing
- Total population of 4 sites: +/- 4,000 families

Questions

- What is the outcome of land sharing so far in Phnom Penh?
- Why is land sharing turning out differently in Phnom Penh than in other Asian cities?
- Does land sharing in Phnom Penh result in tenure security for the residents of informal settlements?

Borei Keila



Total area: 14 ha.

- Land sharing agreement:
 - » Residents to be re-housed in 10 apartment blocks, on 2 ha
 - » Developer gets building rights around perimeter of site
 - » 12 ha of site is freed up for future development

Dey Krahom

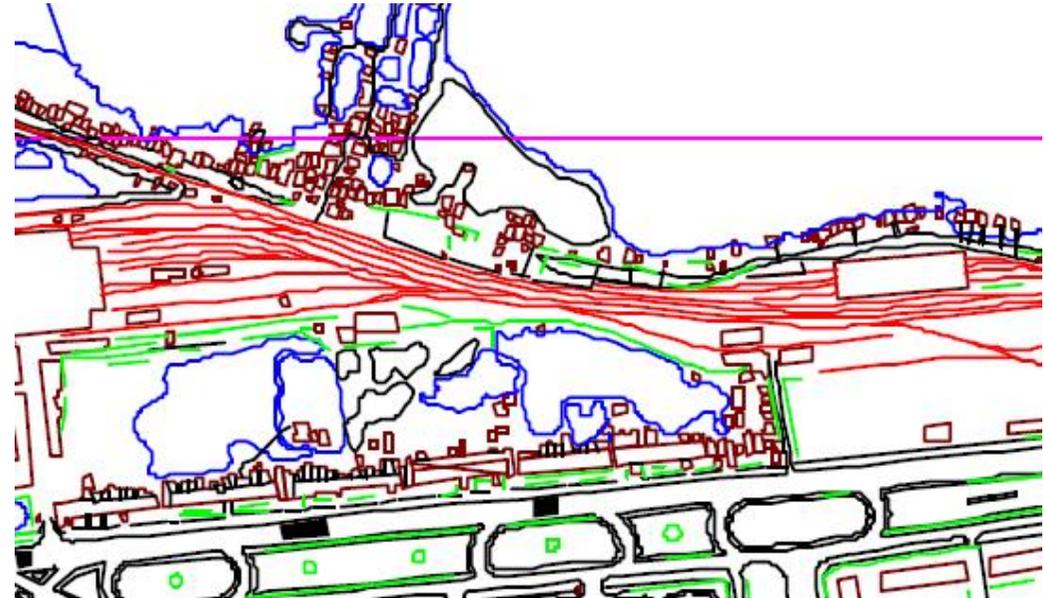


Total area: 3.7 ha.



- Land sharing abandoned
 - » Physical site constraints
 - » Residents negotiating with developers for suitable relocation package
 - » Little intermediation

Railway Sites (A & B)



Total area: 1.3 + 10 ha.

- Land sharing deadlocked
 - » Leaseholder resists land sharing
 - » Communities resist relocation
 - » Little intermediation

Pre-Conditions of Land Sharing

- *What makes parties come to the negotiating table?*
- *What makes compromise possible?*
- Power of main stakeholders (land occupants and landowner and developers) must be fairly evenly matched
- At least 7 main pre-conditions

Buoyant local economy & booming land market

Well organized community; community consensus

Long-established community

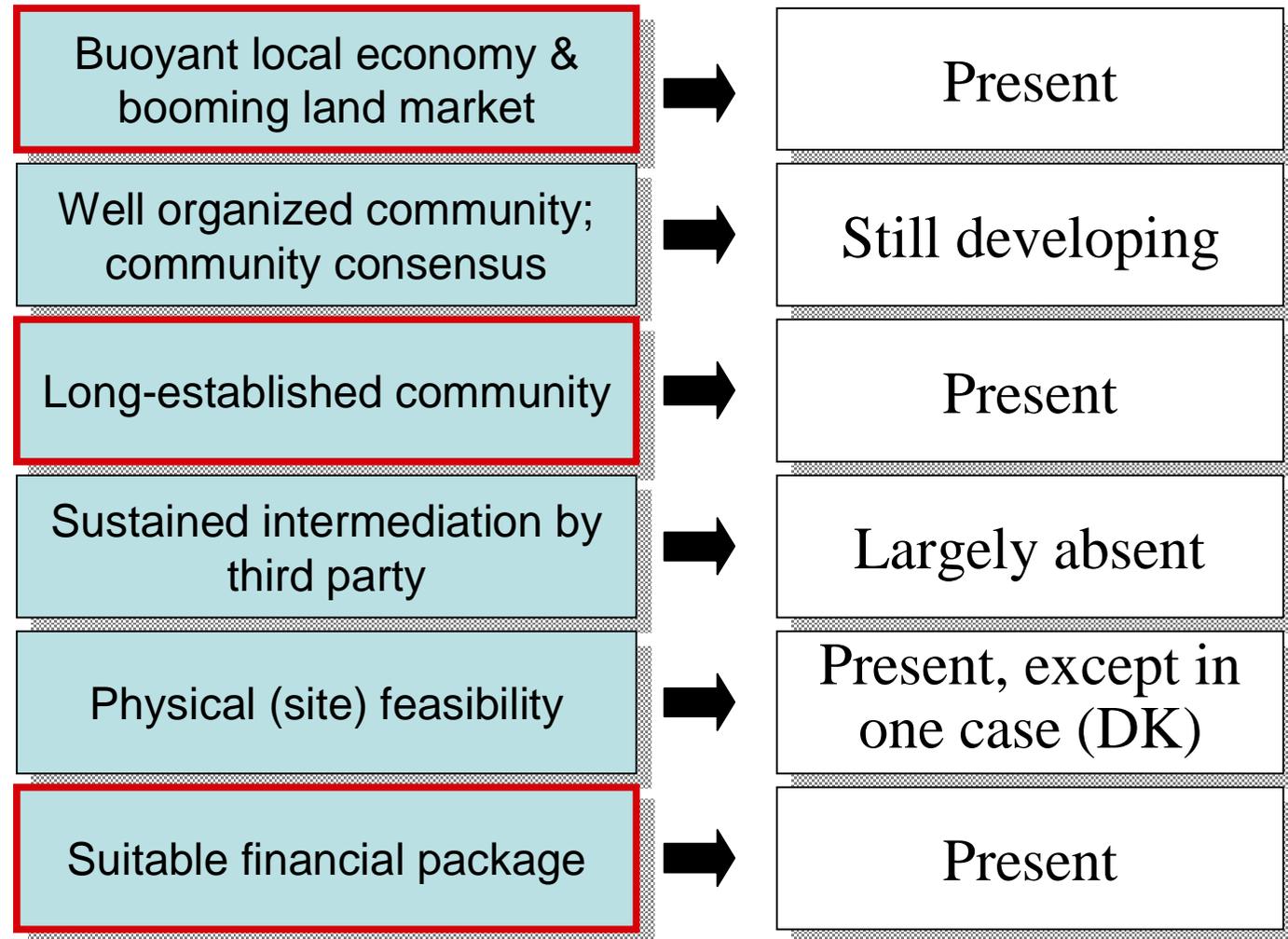
Sustained intermediation by third party

Physical (site) feasibility

Suitable financial package

Pre-Conditions of Land Sharing—Phnom Penh

Three driving forces of land sharing in Phnom Penh:



What is Behind the Driving Forces?

- Active land market
 - » Developers seek access to land & properties in city center through land purchases and swaps, or through “sharing” (Borei Keila case)
- Financial arrangements
 - » Developer pays for new housing on site or in new site; housing is free for land occupants
 - » Developer gets land or right to build
- Land occupants in many informal settlements may have “possession rights”
 - » Provision in Land Law 2001

Current Trends

- Lack of public intermediation
- Process of “interest sharing”
 - » Negotiation and power struggle between private developers and land occupant communities
- From supply-driven to demand-driven
 - » First case of Borei Keila was supply-driven process—land sharing imposed
 - » Other three cases: lack of intermediation
 - » What do the people want? They want the best deal, which is not necessarily staying in the city
- Moving beyond land sharing
 - » Land sharing compromise has limited appeal
 - » Practical difficulty

Conclusion: Lessons from Bangkok

- Land sharing *can* work!
 - » All 7 land sharing sites now fully integrated into the city
- Getting the poor to benefit from land price rises
- Land sharing experience parallels emergence of civil society and political openness in Thailand:
 - » Since 1980s communities much better organized
 - » New constitution
 - » Democracy at local level
 - » Rise of NGOs and CBOs
- Conflict between public agency commercial interest (Crown Property Bureau, King's Property Bureau, Treasury Dep't) and public concern and image
- Impact on the poorest residents and on original residents?
 - » Land sharing schemes have excluded newcomers, renters and poorest of the poor (Askew, 2002)
 - » Cost of rebuilding homes can be too much for poorest households, who sell their rights and squat elsewhere
 - » Residents complain of rising costs associated with regularization
 - » High turnover of communities after agreement
 - » Some cases: only few original residents remain

Criteria of Success—Bangkok

Wide variety of circumstances of land sharing...

- High stakes: all land sharing sites located in or near city core and main employment centers
 - Main communities affected resisted “silent evictions”
 - Strong employment link: communities in local service sector and small-scale industries
 - Crucial role of intermediary organizations (NHA) and “allies”
- Slums that have been more successful at resisting eviction are:
 - » Larger
 - » Better established
 - » Better connected
 - » On public land
 - Landowners participate in land sharing not by legal necessity, but for pragmatic and “cultural” reasons (charity and merit-making)
 - Political will

Conclusion: Land Sharing in Phnom Penh

- In Phnom Penh, intermediation by third party is critical
 - » Without intermediation, parties will not necessarily gravitate towards land sharing...
- Land sharing not a “solution” to eviction!
 - » Comparatively small-scale and low impact
 - » Success depends on many circumstances
 - » Difficult to replicate at broader scale
 - » Depends on physical/site characteristics
- Secure tenure: is the inducement strong enough?
 - » Many land occupants may already have possession right
 - » Land occupants can get (more) secure tenure through other schemes (land swaps with developers)
 - » Many families may prefer to swap their land in the city



Land sharing in the city?

...Or a move to new premises outside?



A dynamic situation, with shifting priorities, preferences, and interests of developers AND community residents ...

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