



ADDIS ABABA UNIVERSITY
SCHOOL OF POSTGRADUATE STUDIES
COLLEGE OF LAW AND GOVERNANCE

**MANDATE, STRUCTURE AND COLLABORATION WITH INSTITUTIONS FOR
URBAN LANDHOLDING REGISTRATION IN ADDIS ABABA CITY GOVERNMENT:
THE CASE OF KIRKOS SUB CITY**

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**A THESIS SUBMITTED TO SCHOOL OF LAW IN PARTIAL FULFILLMENT OF
THE REQUIREMENT FOR THE DEGREE OF MASTER OF LAWS (LLM) IN URBAN
PROPERTY AND LAND LAW**

SEPTEMBER 2021
ADDIS ABABA, ETHIOPIA

ADDIS ABABA UNIVERSITY
SCHOOL OF POSTGRADUATE STUDIES
COLLEGE OF LAW AND GOVERNANCE

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ACKNOWLEDGMENT

First of all, thanks to the Almighty God! Without his support and guidance I would not be here today.

Secondly, it is my honor to appreciate Dr. Mellese Damtie, my advisor, who provided concrete and constructive advice patiently. Based on his advice I got indispensable support in the whole thesis writing.

Next my heartfelt gratitude and dedication is to Mr. Mulatu Ayele, little brother, who helped me and his support last out the entire time of study.

Besides, my gratitude has to be expressed to unforgettable interviewees who are officials at different levels and they have shown me courtesy to hold an interview and provide necessary information.

The last but not the least, my sincerest thanks must go to my family; to my beloved mother, brothers and sisters.

Sincerely,

Abebe Ayele

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Acronyms and Abbreviations

- FDRE - Federal Democratic Republic of Ethiopia
- FIG - The International Federation of Surveyors
- UNECE - United Nations Economic Commission for Europe
- SAR - Systematic Adjudication and Registration
- URPRIA – Urban Real Property Registration and Information Agency
- ULHRIA - Urban Landholding Registration and Information Agency
- AACA – Addis Ababa City Administration
- AACG - Addis Ababa City Government
- GTP II – Growth and Transformation Plan II
- MoUDC – Ministry of Urban Development and Construction
- MoUDH - Ministry of Urban Development and Housing
- ULDM – Urban Land Development and Management

Abstract

Addis Ababa City Government has started adjudication and registration of urban landholding rights since 2015 G.C along with establishment of established the registering institution. The institution has a plan to complete adjudication and registration of urban landholdings by the end of 2022 G.C and realize the establishment of secured, reliable and modern legal cadastre and integrated land information management system. However, the pace of adjudication and registration of urban landholding rights is continued to be implemented in its slow phase where it takes a lengthy time to complete the process of adjudication of rights, restriction and responsibilities on urban landholding and enormous amounts of urban landholdings remain registered under dispute register. The objective of this research is to assess the legal and institutional constraints attributing to the existing challenges in the course of adjudication and registration of urban land holding rights. Case study and document analysis research methods are used. Primary data collected using semi structured interview questions. Other primary data sources such as policy documents, laws and standards are analyzed in order to derive meaning and evaluate whether they are convenient for the urban landholding adjudication and registration. There are legal and institutional constraints existing attributing for the existing problems. These are the non-implementation of the law, limitations and unclarity in the legal provisions, lack of effective collaboration with stakeholder institutions and absence of mechanism of accountability for failure to discharge duty to cooperate. Therefore, it needs the revision of the law, institutional structure and ensure the collaboration of institutions together with mechanisms of accountability.

Keywords: *Registration Rights, Adjudication of Land Holding Rights, Land Parcel, Legal Cadastre*

CHAPTER ONE

1. INTRODUCTION

1.1. Background to the Study

Urban lands in most parts of the world face unprecedented stresses: ongoing urbanization along with the increase in population create huge demands on urban land for different uses including residential, greenery, infrastructure, business, and social services.¹ Especially in the urban areas of developing countries (e.g, Ethiopia) there is a problem of identifying who holds what land, which lands are private, which are government, and the various land use types. These problems hamper the efficiency of service delivery and urban planning.² In Ethiopia, though land is owned by the state, private uses of urban land, along with the bundle of rights, is provided for a defined time through a lease system. Recording the boundaries of the plot, its value, and its uses are useful for both the leaseholder and the government. For the leaseholder it can support increased confidence that eviction will not occur. For the government it helps in the monitoring of land uses and the levying of appropriate land taxation.³ Land registration can provide this important information with regard to the question who ‘holds’ which unit of land.⁴

The policy framework for urban land registration and titling underpinned by the National Strategic Plan which is Growth and Transformation Plan (GDP II) of the FDRE Government and National Urban Land Development and Management Policy and Strategy of the Ministry of Urban Development and Housing(MoUDH). In 2016 the Growth and Transformation Plan (GTP II) (2015/16- 2019/20) was issued and pledges to modernize it through establishment of a

¹ Berhanu K., Rohan M., ‘J. Zevebenbergen, ‘Evolving urban cadastres in Ethiopia: The impacts on urban land governance’ (2015) 42 Land Use Policy 695 <<https://doi.org/10.1016/j.landusepol.2014.10.001>> accessed 14 Mar 2021

² Ibid

³ Ibid

⁴ J. Zevenbergen, *Systems of Land Registration: Aspects and Effects* (Netherlands Geodetic Commission 2002) 10

cadastral system in major cities of the country.⁵ The cadastral system is supposed to enable registration of urban land and property, clarify ownership and use rights on properties and land parcels, protection of such rights of rightful owners. The updated Urban Land Development and Management Policy and Strategy prepared by MoUDH in August 2013 sets out a range of activities to ensure that systems for urban land development and management are a foundation and driver for development.⁶ A key policy objective is registering urban landholdings so that policy, strategy, laws and Standards are prepared for the implementation of urban real property registration.

Addis Ababa City Government established the registering institution Urban Landholding Registration and Information Agency (ULHRIA) by proclamation 45 of 2015 and its respective registration offices at the sub city level. The institution has a plan to undertake and complete the adjudication and registration of urban landholdings and realize modern legal cadastre and establish an integrated land information management system by 2022 G.C.⁷ Therefore, the process of systematic adjudication and registration of urban landholding was started, building on the earlier pilots and using the AA-CADIS software.⁸

However, the process of adjudication and registration of urban landholding and the vision to realize secured, reliable and modern legal cadastre and integrated urban land management system is in its slow progress. Where the process of adjudication of urban landholdings takes years than it is supposed to be completed within months and more than this, the case of urban landholdings remaining under dispute registry has become a challenge to acquire complete inventory of urban landholdings within the adjudication area. An important aspect of urban landholding adjudication and registration is therefore to create a new register of landholdings

⁵ Muradu Abdo(ed), *Ethiopia's Urban Land Question: Focus on Access to Justice and Dispute Resolutions* (Ethiopian Civil and Commercial Law Series, Volume-X, Addis Ababa University School of Law 2020) 271 citing FDRE, Plan Commission 'Growth and Transformation Plan II (2015/16- 2019/20)' (GTP II) (May 2016)

⁶ Review of the Urban Legal Cadastre Of the Government of Ethiopian: Issues and Policy Recommendation Report, (World Bank Group, 2016) 10

⁷ The Five Years Institutional Plan of Addis Ababa City Government Urban Landholding Registration and Information Agency

⁸ Review of the Urban Legal Cadastre of the Government of Ethiopian: Issues and Policy Recommendation Report, (World Bank Group, 2016) 10

based on a process that formally recognizes the existing rights and obligations on urban land. Therefore, the purpose of the law is that all urban landholdings in the urban centre would be subjected to adjudication and the legal boundary of which is surveyed and demarcated. The adjudication register shall serve as conclusive proof for registration and finally the legal cadastre registry will then serve as sole source of urban land information.

1.2. Research Problem

Adjudication and registration of urban landholding right is underway in Addis Ababa City since 2015 G.C along with establishment of the institution Urban Landholding Registration and Information Agency by Proclamation 45 of 2015 and registration offices at the lower administration unit, the sub city. The Agency has a plan to undertake and complete adjudication and registration of all urban landholdings within the administrative limit of the city and thereby establish a sustainable and modern legal cadastre and integrated urban real property management and cadastre system by the end of 2022 G.C.

However, performing pursuant to the plan and completing the adjudication and registration of all urban real property rights has been a difficult task for the institution. This due to the lengthy time it requires to complete the process of adjudication and enormous amount of urban landholdings remain without adjudication being completed and registered under dispute registry. Undertaking and completing adjudication based on the timeframe prescribed by the law and achieving comprehensive coverage of all urban landholdings within an adjudication area remain questionable. Consequently, the process of adjudication and registration of urban landholding in Addis Ababa City as well as in the case study area is continued to be implemented in its slow phase. Moreover, prolonged suspension of transfer title during adjudication affects the right holders their right to transfer title.

Therefore, the research at hand intends to evaluate and analyze those factors ascribing to the legal and institutional constraints attributed for the difficulty of timely execution of activities of adjudication and existence of massive urban landholdings under dispute registry.

1.3. Research Objective

1.3.1. General Objective

To assess the effectiveness of urban landholding adjudication and registration process by reviewing the current status in Addis Ababa City Government taking Kirkos Sub City as a case study.

1.3.2. Sub Objectives

- ✓ To identify legal and institutional factors that hamper or impede the process of urban landholding adjudication and registration
- ✓ To assess the existence of limitations or unclarities in the law
- ✓ To determining the feasibility/convenience of organizational structure of the registering institution and its collaboration with right other stakeholder institutions

1.4. Research Questions

- ✓ What are the constraints identified so far hindering the success of urban landholding adjudication and registration process?
- ✓ What are the limitations or unclarities in the law for urban landholding adjudication and registration?
- ✓ What are the factors that hinder the collaboration of institutions?

1.5. Research Methodology

1.5.1. Research Design

The study employed a qualitative method of case study type and desk review research approach to identify and understand constraints in the process of implementation of urban landholding adjudication and registration. The case study type of qualitative research approach is preferred because it utilizes primary data to be collected using appropriate techniques. The purpose of using qualitative data is to collect mainly primary information in order to gain an in-depth understanding of the constraints and challenges hindering efficiency and effectiveness of the process of adjudication and registration of urban landholding. The constraints might be related to

legal or institutional aspects that have become bottlenecks challenging the process of realizing legal cadastre system. These might be such as limitations or unclarity in the legislations and absence of effective integration with institutions of stakeholders in the process of registration of urban land. There is a clear sign, based on qualitative data collected from the case study area, that the process of adjudication and registration of urban landholding in Addis Ababa City continued to be implemented in a slow phase than it was supposed to be achieved in 2022 G.C.

Whereas, the desk review research is a form of research in which documents are interpreted to derive meaning. Policy documents will serve as secondary data sources and input for the desk review. The policy documents that would be analyzed includes the National Growth and Transformation Plan (GTP II) and Urban Land Development and Management Policy and Strategy of (the then) Ministry of Urban Development and Housing (MoUDH) Currently merged with Ministry of Urban Development and Construction (MoUDC) and the laws i.e. proclamation, regulations and directives. The analysis would focus on whether the policy and legal documents are convenient for the implementation of legal cadastre registration.

1.5.2. Research Method

Research methods are about the tools or techniques to be used to collect data. The qualitative data were collected by using interviews as a tool. Semi-structured interview method was employed to collect qualitative information in order to gain an in-depth understanding of the process of implementation of adjudication and registration of urban landholding together with challenges that have been experienced during adjudication of rights and obligations on urban landholding. The interviews were made with persons who are considered as key informants and persons who have actually gone through the process of adjudicating and registering urban landholdings. Among the key informants were officials of the urban landholding registration and information agency both at the city and sub city level including the chief executive officer of the right creation institution at Kirkos sub city.

The main purpose for administering semi structured interviews was to obtain primary information based on pre-established questions by strictly adhering to the wording of the questions. It includes real situations of the ongoing legal cadastre registration and the views of

the interviewees regarding the success and failure in the course of implementation of legal cadastre registration.

1.5.3. Sample Technique

The selection of the interviewees held based on a procedure of purposive sampling approach. This is mainly because of the type of qualitative data to be gathered. The information would be real and mainly gained based on real experiences of individuals by their actual engagement on the process of adjudication and registration in urban real property registration. Therefore, consider the interviewees as key informants on the issues at hand and selected based on the following criterias: their knowledge on the issue and the level of the key informants' involvement in their respective organizations.

1.6. Significance of the Study

The purpose of the research is to assess the progress of urban landholding adjudication and registration and identify bottlenecks in the course of realizing legal cadastre system. The challenges would be either legal or institutional constraints and will be thoroughly reviewed based on the experience of the institution undertaking urban real property adjudication and registration. The study will contribute for further research to be done in the area which indicates the existence of real problems based on facts and evidence proved.

1.7. Limitations of the Study

At the outset it was the time when the outbreak of Covid 19 pandemic in our country where the regular teaching learning process had been interrupted for a long time. Thus, it created inconvenience and inaccessibility of getting facilities as well as the challenges during the process of gathering empirical data. Therefore, the influence of this situation continued during the entire research work and there has been an inconvenience of not having enough time.

1.8. Scope of the study

The study will focus on the case study of Kirkos sub city in AACG and factors restraining the effectiveness of adjudication and registration of rights, restrictions and responsibilities on urban landholding. The factors would be related to legal and institutional aspects of land registration.

Thesis Structure

Chapter One: Introduction

In this chapter, research background, research problem, research objectives, research questions and the methodology are addressed.

Chapter Two: Literature Review

This chapter presents a literature overview on the problem related to this research.

Chapter Three: Theoretical Concepts

Main concepts related to the topic of the research are discussed. There certain aspects selected as main concepts related to the research. These are land registration, legal cadaster registration and adjudication of title to land.

Chapter Four: Discussion, Analysis, Recommendation and Conclusion

The chapter analyzes the current urban legal cadaster registration and the legal and organizational constraints in the process. The discussion, conclusion and recommendation are presented. The limitation of the research is also addressed.

CHAPTER TWO

2. LITERATURE REVIEW

Land registration is a complex process which involves at least technical, legal, and organizational aspects, which influence each other. All these aspects are involved in making a system of land registration function well.⁹ Complicated due to the fact that this is a multidisciplinary endeavor, involving at least lawyers and surveyors, and usually also public administrators, IT-specialists, planners and economists. Each of them looks at land registration from a different perspective.¹⁰ This fact clearly indicates the integration of all the three aspects of land registration is indispensable. In order to fully understand it is also necessary to study land registration in its entirety.

Therefore, based on this notion the following literature review will be built on how the researchers dealt with land registration and to assess whether they predetermined the aspect system of land registration that would be subject to investigation.

T. Perera¹¹ A journal article published in Sri Lankan Journal of Real Estate ‘Implementing Land Registration Systems in Sri Lanka: Being Pragmatic’ emphasizes hypothesizing land registration programs and projects implemented in Sri Lanka have not been efficient and effective in addressing the need of land market at times. Case study methodology from other developing countries and countries of transition in Asia have been looked into to analyze their experiences as to how they have overcome similar issues through pragmatic approaches and based on secondary data published on journal articles were used to seek case studies for land registration systems in other countries. The study reveals a large number of institutional players, long delays in settling cases with disputes in District courts and bureaucratic procedures are the main causes for the slow phase implementation of title registration projects. Suggests effective collaboration with Divisional Secretaries and Provincial Land Commissioners, who hold the power to

⁹ J. Zevenbergen, *Systems of Land Registration: Aspects and Effects* (Netherlands Geodetic Commission 2002). 4-5

¹⁰ Ibid

¹¹ T. Perera, ‘Implementing Land Registration Systems in Sri Lanka: Being Pragmatic’ (2010) *Sri Lankan Journal of Real Estate* 74 <<https://www.semanticscholar.org/paper/Implementing-Land-Registration-Systems-in-Sri-Being-Perera/>> accessed 16 Feb 2021

regularize encroachments or formalization of informal settlements, to ease out solving manageable land disputes and litigation with regard to private lands, Integrate with the Sustainable Township Program/Real Estate Exchange Limited Project in order to deal with the land tenure issues regarding the informal settlements in the city of Colombo as a solution.

Asmamaw Yehun and three others¹², journal article ‘Evaluation of Current Urban Cadaster Practice in Ethiopia: Case of Bahir Dar, Gondar and Dessie’ conducted case study research and review of legal and policy document. Identified challenges in establishing legal cadastre are lack of legal framework, institutional establishment and lack of integration and work procedure in between right creator and the registering department. The study recommended establishing a uniform institutional set up together with necessary budget for capacity building and preparation of surveying equipment, establishing the necessary legal framework, and MoUDH should follow for the uniform implementation nationwide.

Likinaw Demissie Dessie¹³ In his LLM Thesis topic ‘Evaluating the Implementation Performance of Legal Cadaster Registration in Addis Ababa City Administration: The Case of Addis Ketema Sub-City’ emphasizes on the cadastral registration practices and challenges involved. Descriptive case study with mixed research approach (both qualitative and quantitative) are the methodological approaches employed. The research findings revealed that the implementation of the legal cadaster registration system is supported by rules, regulations and legislation, good institutional arrangement and supported by ICT. However, the research recommends the legal cadastre registration system needs improvements in three main aspects: clarity of legislations that support the mandate of cadastral registration, efficient execution of strategy, stakeholder’s policy and in the institutional stability.

¹²Asmamaw Yehun et al., ‘Evaluation of Current Urban Cadastre Practice in Ethiopia: Case of Bahir Dar, Gondar and Dessie(8804)’, (2017) FIG working week 2017

¹³ Likinaw Demissie Dessie, ‘Evaluating the Implementation Performance of Legal Cadaster Registration in Addis Ababa City Administration: The Case of Addis Ketema Sub-City’ (MSc Thesis, Bahir Dar University2020) <<http://hdl.handle.net/123456789/11363>> accessed 16 Feb 2021

Benjamin Armah Quaye¹⁴ Journal article ‘Factors impacting on effective implementation of land title registration - a perspective from Ghana’ study relying on empirical data from two major cities in Ghana, Accra and Kumasi, examines the operations of land registration system with particular reference to its land information management aspects. Primary and secondary data were collected using mixed methods. The result of the investigation shows that organizational challenges and a divergence or deviations in the implementation of the principles of the legal framework(key provisions) resulted in deficiencies in the land information regime. Thus most land transactions in the declared districts in Accra and Kumasi remain unregistered. The study suggests a need for implementing a well-crafted and functional legal framework for land registration, re-engineering of the business processes of services of the Land Commission, including land registration and integrate the processes of the Divisions of the Land Commission into a single business process and there should be continuous monitoring and evaluation of the processes.

Melkamu Belachew Moges¹⁵ An article on Mizan Law Review, ‘Achievements and Gaps in the Application of Land Registration System in ANRS: The Case of West Gojjam’ examines the challenges in the registration system in West Gojjam in relation to reducing or resolving land disputes. Case study approach used where five rural weredas were chosen. Questionnaire, FGD and Court case analysis were conducted where 23 land administration and use staff and 11 judges from regional supreme and regional high court were addressed in conducting the research. The research approved land registration system in ANRS has positive results in reducing land disputes. However, the land registration system in the region is not used in the settlement of land disputes. Because of court’s inadequate attention to the information in land holding certificate as prima facie evidence and rather requiring field reports of the wereda land administration and use office. The other is that the land registration system is not complete and not updating regular transactions. Moreover, the list of recognized registrable property rights, restrictions and responsibilities are not fully addressed in the legislation. Suggests the need for a strong

¹⁴ Benjamin Quaye, ‘Factors Impacting on Effective Land Title Registration - A Perspective from Ghana’ (2020) 1(2) Journal of Planning and Land Management 23 DOI:[10.36005/jplm.v1i2.25](https://doi.org/10.36005/jplm.v1i2.25) accessed 4 Mar 2021

¹⁵ Melkamu Belachew Moges, ‘Achievements and Gaps in the Application of Land Registration System in ANRS: The Case of West Gojjam’(2020) 14(1) Mizan Law Review 31 <DOI <http://dx.doi.org/10.4314/mlr.v14i1.2>> accessed 20 Feb 2021

institutional and regulatory mechanism of land management in ANRS to be implemented through land administration and use offices at various levels, the court system, and customary dispute resolution mechanism.

Tafesse Bosha Hirboro¹⁶ in his thesis work ‘Urban Land Registration System and its Contributions to Sustainable Land Management in Wolaita Sodo Town, SNNPR, Ethiopia’ Studied the status of land registration, its implementation capacity, socio economic impact, the contribution of land registration to sustainable land management and overall challenges of land registration. The research has employed mixed research method design where both qualitative and quantitative research approach were applied. Primary and secondary data were collected. The research findings are absence of binding legislation regarding aspects of the cadastre and land registration, lack of skilled manpower, lack of interdepartmental integration, time consuming procedures of land title registration and costly surveying procedures, lack of adequate financial sources to purchase these surveying equipments, poor political commitment. Suggests for the municipality of Sodo town to look for appropriate land registration policies, rules and regulations, setting smooth institutional coordination and giving priority, Public awareness creation, giving enough consideration for trained and skilled manpower, supportive budget for technical devices for surveying, mapping, and data processing purposes, computerizing and organizing in database system, establishing governmental authority at lower level to coordinate and follow up land registration functions.

Chapter Summary

The literature review reveals that studies have been undertaken from diverse perspectives of land registration and based on different methodological approaches employed. The other difference is also reviewed where studies were conducted from the general perspectives of land registration without prior determining the aspect system of land registration such as legal, institutional and technical aspects. Despite the divergence in perspectives, methodological approaches and absence of prior determination of aspect systems, the research findings revolve around the issues of legal and institutional constraints as existing factors in limiting the success

¹⁶ Tafesse Bosha Hirboro, ‘Urban Land Registration System and its Contributions to Sustainable Land Management in Wolaita Sodo Town, SNNPR, Ethiopia’ (MA Thesis, Arba Minch University 2018) <website> accessed

of land registration. Few examples are, T. Perera, in his study, reveals the existence of a large number of institutional players, long delays in settling in cases with disputes in district courts and bureaucratic procedures are the main causes for the slow phase implementation of title registration project. Asmamaw Yihun and three others, identified challenges in establishing legal cadastre are lack of legal framework, institutional establishment and lack of integration and work procedure in between right creator and the registering department. Benjamin Armah Quaye, his research study findings organizational challenges and a divergence or deviations in the implementation of the principles of the legal framework or key provisions resulted in deficiencies in the land information regime. Where most land transactions remain unregistered in the case study area.

Therefore, the above literature review enables us to understand how the researchers dealt with the topic of land registration. Despite the divergence of the perspectives of the studies they have reached almost in common or similar in their research findings. These are the issues of legal and institutional constraints as well as divergence in the process of implementation of the legal provisions. The research at hand aligns with the above reviewed literature to the extent they have undergone to identify causes and employed valid methodology for the issues at hand. But at the same time the research at hand believes the significance of predetermining the aspect system of land registration that it would have great importance to have clear focus on a given issue of land registration. So that focused on legal and institutional constraints limiting the effectiveness of the process adjudication and registration of urban landholding.

CHAPTER THREE

3. THEORETICAL CONCEPTS

3.1. Land Registration and Legal Cadastre

Land registration and cadastre make up an integral part of land administration which is about official record, dissemination and managing information about ownership, use and values of land.¹⁷ Land administration is about efficient management of land and information about land. Land registration is about the process of recording legally recognized interests (ownership and/or use) in land.¹⁸ A closely related topic can be found in cadastre, which in a similar way could be described as an official record of information about land parcels, including details of their bounds, tenure, use, and value.¹⁹ Therefore, land registration and cadastre help achieve the purpose of land administration. Recording legally recognized interests, their legal boundary as well as value enables them to effectively manage information about land. It usually includes managing the ownership or use right, valuation for property, managing the use and planning purpose. These things can be made achievable by land registration and cadastre. That is why ‘land registration is a means to an end. It is not an end in itself.’²⁰ The same is also true for cadastre where it would be established for legal, fiscal and land use and planning purposes according to the definition given by the international federation of surveyors.

¹⁷ J. Zevenbergen, Systems of Land Registration: Aspects and Effects (Netherlands Geodetic Commission 2002) 2

¹⁸ J. Zevenbergen, Systems of Land Registration: Aspects and Effects (Netherlands Geodetic Commission 2002) 2
Citing, McLaughlin, J.D. and Nichols, S.E. Resource Management: The Land Administration and Cadastral Systems Component, In: *Surveying and Mapping*, No. 2 1989: 81

¹⁹ J. Zevenbergen, Systems of Land Registration: Aspects and Effects (Netherlands Geodetic Commission 2002) 4-5

²⁰ Muradu Abdo(ed), *Ethiopia's Urban Land Question: Focus on Access to Justice and Dispute Resolutions* (Ethiopian Civil and Commercial Law Series, Volume-X, Addis Ababa University School of Law 2020) 260 Citing, S.R. Simpson, Land Law and Registration (1976)

3.1.1. Land Registration

Land registration provides the framework and means for recognizing formalized land ownership rights and for regulating the transfer of these rights.²¹ The formalization of land ownership or use right is all about recognition of land right through effectively recording of interests in land. Therefore, land registration is about documenting legally recognized interests in land and usually the task is undertaken by government institutions. The documented interests or information will be put into use for a wide variety of public functions such as economic, social, and environmental purposes.²² Social benefits are increasing tenure security and promoting urban land and housing markets and the economic benefits include increased investment in housing and property development, access to credit, increased property values and household income. Therefore, the purpose of land registration is to provide documentary evidence about legally recognized interests in land to be stored in the land registry. The information recorded in the land registry serves both the private and broader national and land administration purposes.

The term ‘registration’ refers to the process while the institution that oversees this activity is called ‘registry’.²³ Land registry documents certain interests in the land, including information about the nature and spatial extent of these interests and the names of the individuals to whom these interests relate.²⁴ The nature of information consists of rights, such as ownership, use rights and obligations such as encumbrances imposed on the property such as mortgage, easement and on who the holding right to a parcel of land.

²¹ Daniel Steudler, ‘A Framework for the Evaluation of Land Administration Systems’ (Dphil Thesis, The University of Melbourne 2004) citing Dale, P. and McLaughlin, J.D., *Land Administration Systems* (Oxford University Press 1999) 169

²² Muradu Abdo(ed), *Ethiopia’s Urban Land Question: Focus on Access to Justice and Dispute Resolutions* (Ethiopian Civil and Commercial Law Series, Volume-X, Addis Ababa University School of Law 2020) 260 Citing G Payne A Durand-Lasserve and Crakodi ‘The Limits of Land Titling and Home Ownership’ *Environment and Urbanization* 2009

²³ Ibid

²⁴ Daniel Steudler, ‘A Framework for the Evaluation of Land Administration Systems’ (Dphil Thesis, The University of Melbourne 2004) 17

Land registration can also have private and public good objectives.²⁵ In its private function, a land registration system provides a safe means of conveyancing or transferring land rights. For instance, the function of a land registration system is to provide a safe and certain foundation for the acquisition, enjoyment and disposal of rights in land. In other words, a private good function of a land registration system is to facilitate the operation of the land market. A broader public function of land registration, on the other hand, is concerned with the provision of an inventory of records of land resources in a country or jurisdiction for fiscal and other development purposes. Typically, this is effected through a cadastre, which provides parcel based up to date land information system based on survey of their boundaries.

3.1.1.1. Land Registration System

Land registration systems are introduced to facilitate the formalization of land rights, transactions in land and protection of land rights as well. As being a source of information that contributes to the reduction of transaction costs in the land market.²⁶

There are only minor differences between deed registration and title registration systems in the way they store documents. The most important difference is that registration of title grants the validity of the document stored and also grants the validity of the registered rights. The registration of deeds only lists documents and the user has to check their validity.²⁷ Both systems of registration of title and registration of deeds evolved to meet the needs for improved conveyancing (transfer of rights). Both were devised to provide greater security to the land market and both grew from a legal rather than a land management perspective.²⁸

²⁵ Benjamin Quaye, 'Factors Impacting on Effective Land Title Registration - A Perspective from Ghana' (2020) *Journal of Planning and Land Management* 1(2) 23 DOI:[10.36005/jplm.v1i2.25](https://doi.org/10.36005/jplm.v1i2.25) Citing Simpson, *Land law and registration*, (1984) Dale, *Land tenure issues in economic development*, (1997) Henssen, 'Basic principles of the main cadastral systems in the world'. *Annual Meeting of Commission 7*, (1995)

²⁶ Ibid

²⁷ G. Navratil & A. Frank, 'Process in a Cadastre' (2004) 28(5) *Computers, Environment and Urban System* 471 DOI : [10.1016/j.compenvurbsys.2003.11.003](https://doi.org/10.1016/j.compenvurbsys.2003.11.003) accessed 19 Feb 2021

²⁸ United Nations Economic Commission for Europe, *Land Administration Guidelines With Special Reference to Countries in Transition* (UN,1996) [E/CECE/HBP/96 : 26

3.1.1.2. Registration of Deeds

Deeds registration provides a means for registering legal documents only; it does not register title to a property. Registration is often not compulsory and some rights are not registered.²⁹ Deed registration does not ensure the validity of the record and it is private the burden to verify real ownership which is by itself burdensome, costly and time consuming. ‘Reviewing and assessing all the documents required to determine the validity of a claim to ownership (the so-called chain of title) can be extremely tedious and expensive to undertake and is always open to dispute.’³⁰ The basic limitation of deed registration lies in its not registering title to property and it does not guarantee the validity of the record data or document in the registry. Ascertaining the validity of registered documents or real ownership remains the burden of the user. It is prone to fraud. ‘The basic principles of registration of deeds is that registered deeds take priority over unregistered deeds or deeds registered subsequently.’³¹ However, discourage transfer of land rights and land market in its not guaranteeing the validity document in the registry and it takes expensive procedure for private users to ascertain the validity.

Under a system of deeds registration, a public repository is maintained for registering documents associated with the property transactions, such as deeds, mortgages, plans of survey, etc.³² In countries of such system, the registry is under the control of the state and a copy of all agreements that affect the ownership and possession of the land must be registered at the registry offices and one copy of all documents is retained. Each document will normally have been checked by a notary or authorized lawyer and its validity ascertained.³³

²⁹ Daniel Steudler, ‘A Framework for the Evaluation of Land Administration Systems’ (Dphil Thesis, The University of Melbourne 2004) 18 Citing S.R. Simpson, *Land Law and Registration*, 1976

³⁰ Ibid

³¹ T. Bogaerts, J. Zevenbergen, ‘Cadastral System – Alternatives (2001) Computers, Environment and Urban Systems 25 DOI:[10.1016/S0198-9715\(00\)00051-X](https://doi.org/10.1016/S0198-9715(00)00051-X) accessed 19 Feb 2021 Citing S.R. Simpson, *Land Law and Registration*, 1976:15

³² Daniel Steudler, ‘A Framework for the Evaluation of Land Administration Systems’ (Dphil Thesis, The University of Melbourne 2004) 18

³³ United Nations Economic Commission for Europe, *Land Administration Guidelines With Special Reference to Countries in Transition* (UN,1996) [E/CECE/HBP/96 :24

3.1.1.3. Title Registration

Title registration was designed to overcome the defects of deeds registration and to simplify the process of executing property transactions.³⁴ Unlike deed registration, title registration proves the validity of ownership. The validity of claim for ownership would be ascertained that the requirement for registration is title to property. Registration would be held based on ascertainment of facts and evidence. The state play active role in such a process. That all the legal interests and obligations shall be ascertained. ‘The registry describes the current property ownership and the outstanding charges and liens. Registration is normally compulsory and the state plays an active role in examining and warranting transactions.’³⁵ The register is normally maintained and warranted by the state. The state undertakes title registration and gives guarantee for its validity of ownership. Therefore, the register of title is authoritative that it is undertaken by the government and record kept in a public office.

The urban land registration currently undergoing in Ethiopia is a kind of title registration where registration of urban landholding requires title to property based on the ascertainment by facts and evidences as well as once registration of urban landholding is carried out the government assures validity of title to a property or registered rights. Moreover, the government establishes a security fund aimed at indemnifying if damage relies on the validity of documents registered.

3.1.2. Cadastre

It is impossible to give a definition of a cadastre which is both terse and comprehensive. No two cadastres are the same. The form of the cadastre in each state or country is usually a consequence of the jurisdiction's historical development, its laws and custom and, to a large extent, its form of conveyancing and method of introduction of land registration.³⁶ Although FIG statement on the cadastre does not recommend a uniform cadastre for every country or jurisdiction define cadastre as,

³⁴ Daniel Steudler, ‘A Framework for the Evaluation of Land Administration Systems’ (Dphil Thesis, The University of Melbourne 2004)19

³⁵ Ibid

³⁶ Ian Phillip Williamson, Cadastres and Land Information Systems in Common Law Jurisdictions, Survey Review, 1985 DOI: 10.1179/003962685791475099

‘a parcel based, and up-to-date land information system containing a record of interests in land (e.g. rights, restrictions and responsibilities). It usually includes a geometric description of land parcels linked to other records describing the nature of the interests, the ownership or control of those interests, and often the value of the parcel and its improvements.’³⁷

A Cadastre is normally a parcel-based land information system created and managed by a government organisation. Land information system that consists of the combination of registry records and cadastral records. The registry records consist of textual information answering the question of who owns what. While cadastral records answer the question of where and how much. Information in the registry record is textual or attribute files of the cadastre, such as land value, ownership, or use, can be accessed by the unique parcel codes shown on the cadastral map, thus creating a complete Cadastre. This is expressed as a record of interests such as rights, restrictions and responsibilities. The cadastral record part is the geometric description of information about land parcels usually involving the spatial information or the outline of land parcels are achieved by cadastral survey. The geometric description of cadastre is about the provision of spatial information of land parcels to be achieved by cadastral survey i.e ground surveys or remote sensing and aerial photography. It describes the measurement of the spatial extent of land parcels together with its boundary. ‘The survey or cadastral records tells us where the parcel in which the rights are held is located; and the type of boundaries that define the parcel that could be watercourses, bunds, or ditch, etc.’³⁸ The cadastral record or map is usually achieved through cadastral survey i.e either ground survey or aerial by photogrammetric method which shows the relative location of all parcels in a given location.

Therefore, ‘the prime importance of the basis of the cadastre is land parcels; not buildings, people or any other criteria.’³⁹ The land parcel is usually the smallest parcel having individual ownership, which may be termed the legal parcel. This parcel is the basic building block of the

³⁷ The International Federation of Surveyors (FIG), Statement on the Cadastre, No. 11 (1995)

³⁸ Muradu Abdo(ed), *Ethiopia’s Urban Land Question: Focus on Access to Justice and Dispute Resolutions* (Ethiopian Civil and Commercial Law Series, Volume-X, Addis Ababa University School of Law 2020) 259-260

³⁹ Ian Phillip Williamson, *Cadastrals and Land Information Systems in Common Law Jurisdictions*, Survey Review, 1985 DOI: 10.1179/003962685791475099

cadastre.⁴⁰ A parcel of land is unique, well-defined units of land. These units are defined by the formal or informal boundaries marking the extent of lands held for exclusive use by individuals and specific groups of individuals (e.g. families, corporations, and communal groups).⁴¹

A cadastre usually consists of two parts; a geographic part which is map or plan and a descriptive part containing register or indexes. The relation between the two is of the utmost importance, and usually arranged through a so-called ‘parcel identifier’.⁴² Each parcel is given a unique code or parcel identifier. Examples of these codes include addresses, co-ordinates, or lot numbers shown on a survey plan or map. Information is geographically referenced to a specific unit of land, a parcel.

3.1.2.1. Legal Cadastre

The difficulty to give an absolute definition of a cadastre makes it difficult to classify cadastre into different types.⁴³ However, the definition given by the FIG classifies cadastre based on the purpose of establishment cadastre as: fiscal cadastre, Legal or juridical cadastre and multi-purpose cadastres. The basis of classification is subject to the purpose of which a cadastre is established. These are fiscal purposes (e.g. valuation and equitable taxation), legal purposes (conveyancing, property rights), multi purposes (to assist in the management of land and land use e.g. for planning and other administrative purposes), and enables sustainable development and environmental protection).

Even though many modern cadastres maintain information on fiscal matters within the cadastral registers, it is in general the legal component of the cadastre which has prime importance.⁴⁴ The basic parcel remains to be common to all registers, the majority of the registers in the cadastre relate to legal matters, particularly concerning ownership and other legal interests in land, and

⁴⁰ Ibid

⁴¹ The International Federation of Surveyors (FIG), Statement on the Cadastre, No. 11 (1995)

⁴² J. Zevenbergen, Systems of Land Registration: Aspects and Effects (Netherlands Geodetic Commission 2002) 28

⁴³ Ian Phillip Williamson, Cadastres and Land Information Systems in Common Law Jurisdictions, Survey Review, 1985 DOI: 10.1179/003962685791475099

⁴⁴ Ibid

conveyancing matters.⁴⁵ Legal cadastre, therefore, were created to record ownership and all other legal interests in land with the purpose having in mind the legal aspects of registration of land. A closely related meaning is given to legal cadastre by proclamation no 818/2014 which ‘Legal Cadastre is an updated landholding information system containing a record of the rights, restrictions and responsibilities on a defined legal boundary for each landholdings demarcated as parcel on a map’.⁴⁶ The purpose of legal cadastre registration is stated as to ensure land holders security of landholding right and recognition of title to immovable property.⁴⁷ Therefore, from the definition given to legal cadastre registration vividly expressed the purpose of legal cadastre registration is a kind of implementation of cadastre concerned with legal aspects particularly with recording ownership, use and other legal interests in land, and conveyancing matters. It is a parcel based land information system; its location and boundary can be clearly identified on a cadastral map and the register of record. The attribute file information in the cadastral registry is referenced through a unique parcel identification number. Therefore, the implementation of urban landholding registration is concerned with registering urban landholding and all legal interests attached thereon. The legal cadastre register contains attribute files which is about textual information of legal interests on urban land and cadastral records indicating specific location of a parcel together with evidence of its size and boundary (spatial information).

3.1.3. Adjudication of Rights

Adjudication is the process whereby existing rights in parcels of land are finally and authoritatively determined and title to land is brought onto the register.⁴⁸ Adjudication is neither creating new rights in parcels of land nor altering the existing right in land; rather it is a systematic ascertainment of existing rights in a land and recognition of this right through registration. It is a process of ascertainment of right in land that has been acquired lawfully and ascertained by facts and evidence of landholding right to be permitted by legally authorized

⁴⁵ Ian Phillip Williamson, *Cadastres and Land Information Systems in Common Law Jurisdictions*, Survey Review, 1985 DOI: 10.1179/003962685791475099

⁴⁶ Art 2(5) of proclamation 818 of 2014

⁴⁷ Art 4 of proclamation 818 of 2014

⁴⁸ United Nations Economic Commission for Europe, *Land Administration Guidelines With Special Reference to Countries in Transition* (UN,1996) [E/JECE/HBP/96: 27

government institutions. The result of adjudication of urban land rights to be undertaken by the government is final and authoritative that no evidence is required beyond the proof of documents of title in the registry achieved by systematically adjudicating existing rights and encumbrances. In theory, the land adjudication process neither alters existing rights in land, nor creates new ones; rather it establishes what rights exist, by whom they are exercised and to what limitations, if any, they are subject.⁴⁹ The definition and meaning is given to the adjudication process to be undertaken under the urban landholding adjudication and registration law. That registration of rights, restrictions and responsibilities of urban landholding would be made possible only by systematically ascertaining the existing rights and obligations as well as surveying and demarcating the boundary of parcels. The process of adjudication does not change existing rights or create new rights on land rather it establishes. In so doing complete coverage of all urban landholdings would be achieved thereby establishing a new legal cadastre registry system and the documents of title recorded under the register shall be final and authoritative.

3.1.3.1. Systematic Adjudication

The systematic adjudication approach implies a methodical and orderly sequence wherein, area by area, all parcels are brought onto the register.⁵⁰ It gives maximum publicity to the determination of who owns what within an area, and more certain because detailed investigations take place on the ground with direct evidence from the owners of adjoining properties.⁵¹ The process of systematic adjudication is carried out by the decision and cost of the state and the purpose of doing adjudication is to have a complete inventory of who owns what land. And the purpose of carrying out systematic adjudication is to have a public inventory of urban landholdings in any urban center and national integrated land information system. Systematic adjudication is compulsory since it is necessary to summon by public notice to everyone who claims to have landholding right in an adjudication neighborhood or designated area to produce evidence of landholding right as permitted by authorized body. The process must therefore be

⁴⁹ United Nations Economic Commission for Europe, Land Administration Guidelines With Special Reference to Countries in Transition (UN, 1996) [E/CECE/HBP/96:27]

⁵⁰ Ibid

⁵¹ Ibid 28

subsidized by the State and indicated as it has to be achieved by the cooperation and participation of the people or residents within designated area systematic adjudication to be carried out.

3.1.3.2. Sporadic adjudication

Sporadic adjudication differs from systematic that it does not give maximum publicity of who owns what within an area. It is not methodically arranged and sequential. But run haphazardly based on the private need. The cost adjudication has also to be covered by user usually the body request for adjudication sporadically. ‘Sporadic adjudication takes place whenever or wherever there is a reason to determine the precise ownership and limits of individual parcels-for example when a dealing is about to take place or when an owner requests that the land be registered. The sequence whereby parcels are brought onto the register is piecemeal, haphazard and unpredictable.⁵² It can be applied voluntarily as is clearly put under the law and the law also permits the cost of the whole operation to be passed directly to the beneficiaries, who can be charged an appropriate fee for having their land adjudicated and registered.

3.1.4. Adjudication Techniques

The adjudication techniques are about the process of surveying and mapping of land parcels. Under the legal cadastre registration proclamation ‘cadastral survey is expressed as a method of measuring landholding boundary on the field using land surveying instrument or through photogrammetric method.⁵³ Therefore, ground survey and photogrammetric methods are the two cadastral surveying techniques acknowledged by the law. Cadastral surveying can be held alternatively by either of the two methods of ground survey or photogrammetric method. Boundary demarcation during surveying of parcel is decided by the agreement made between the adjoining parties and the cadastral map or plan of a parcel is determined by cadastral surveying.⁵⁴ Despite the difference in adjudication techniques i.e. surveying and mapping in various countries

⁵² United Nations Economic Commission for Europe, Land Administration Guidelines With Special Reference to Countries in Transition (UN, 1996) [E/CECE/HBP/96:27]

⁵³ Art 2(15) of Proclamation 818 of 2014

⁵⁴ Art 14(7) of Proclamation 818 of 2014

during different periods of time, the general steps of adjudication are globally similar. These are boundary identification by agreement, surveying and mapping, output verification.⁵⁵

From the technical perspective, there are two ways with different techniques/tools to carry on adjudication from primary sources; these are ground survey and photogrammetric methods using remote sensing imagery.⁵⁶ Photogrammetric method used to identify land parcel boundaries is considered to be an alternative to ground surveys and has been adopted by different countries in different ways.⁵⁷ Photogrammetric method can be either High Resolution Satellite Imagery (HRSI) plays a very significant role in generating large scale maps and Low Altitude Remote Sensing Imagery (LARSIS) provides a potential chance to greatly enhance the conventional adjudication by replacing fieldwork. The latter is a kind of imagery mainly based on two platforms such as Unmanned Aerial Vehicle (UAV) and Airship.⁵⁸ The higher the resolution of the imagery is, the higher accurate cadastral maps can be generated by tracing boundaries directly on the orthophotos after identifying land rights.⁵⁹

Chapter Summary

Land registration and cadastre forms an integral part of land administration which is about official record, dissemination and managing information about ownership, use and values of land. Registration of land is to have an official record of information about land. In the same way cadastre can be described as an official record, a parcel based, and up-to-date land information system containing a record of interests in land (e.g. rights, restrictions and responsibilities). It includes a geometric description of a parcel which means details of location, spatial extent and its boundary demarcation. Therefore, they both serve the purpose of land administration. Therefore, land registration and cadastre have common elements where cadastre has additional

⁵⁵ Ying Jing, 'Assessing LARSIS-Integrated Participation Procedure for Urban Adjudication in China' (MSc Thesis, University of Twente, The Netherlands 2011) 17 Citing J. Kaufmann and D. Steudler, Cadastre 2014 – A Vision for a Future Cadastral System (FIG Commission 7 1998)

⁵⁶ Ibid

⁵⁷ Ibid 619-628

⁵⁸ Ibid 18

⁵⁹ Ibid 18

elements of geometric description of land information about answering the question of where and how much.

Both land registration and cadastre are a means for an end but not an end by themselves. This is to mean that land registration and cadastre both are not an end by themselves but to achieve the purpose of efficacy of land administration. They both serve the purpose of land administration. Its security of tenure, property valuation and effective management of land use and planning.

It is the kind of legal cadastre registration currently ongoing urban landholding registration process with the purpose of registering legal interests in all urban landholding in order to establish legal cadastre system. So that to ensure the protection of property right. The purpose of the law to have national integrated parcel based land information system is a sign of need to establish fiscal cadastre or utilize the information for fiscal purpose. Legal cadastre registration involves both registry records having textual information of interests in land and cadastral records tells about the spatial extent of a parcel to be achieved by cadastral surveying either ground survey or photogrammetric method. The process of legal cadastre registration would be implemented by adjudication of urban land holding rights either systematically or sporadically. Adjudication involves the ascertainment of existing interests such as rights, restrictions and responsibilities on land based on facts and evidences. Adjudication neither alter nor create new right rather than establishing the preexisting interests.

CHAPTER FOUR

4. Mandate, Structure and Collaboration with Institution for Urban Landholding Registration in Addis Ababa City Government: the Case of Kirkos Sub City

4.1. Policy and Legal Frameworks for Urban Landholding Registration

The policy and legal framework for urban land registration and titling stem from the policy of property right protection under the FDRE constitution. Urban land use rights and ownership of private (immovable property) rights have got recognition by the constitution.⁶⁰ Therefore, urban land registration and titling would serve the purpose of property right protection policy under the FDRE constitution. It also helps the government to ensure effective land administration and decide proper utilization by using parcel based land information system.

The policy framework for urban land registration and titling underpinned by the National Strategic Plan which is Growth and Transformation Plan II of the FDRE Government and National Urban Land Development and Management Policy and Strategy of the then Ministry of Urban Development and Housing(MoUDH). In 2016 the Growth and Transformation Plan Two (GTP II) (2015/16- 2019/20) was issued and it considers urban land and urban land administration as the second major source of rent seeking next to tax administration and pledges to modernize it through establishment of a cadastral system in major cities of the country.⁶¹ The cadastral system is supposed to enable registration of urban land and property, clarify ownership and use rights on properties and land parcels, and protect such rights of rightful owners.⁶² Projects in support of the urban legal cadastre under GTP II are grouped under the program Urban Map Production, Surveying and Land Use Right Registration. There are six projects in total identified under this program. Among them Urban Legal Cadastre Information Development Project which is about developing the software (CRPRS) for the urban legal cadastre and establish network and data centre infrastructure for the implementation of the

⁶⁰ Art 40(7) of the FDRE Constitution

⁶¹ Muradu Abdo(ed), *Ethiopia's Urban Land Question: Focus on Access to Justice and Dispute Resolutions* (Ethiopian Civil and Commercial Law Series, Volume-X, Addis Ababa University School of Law 2020) 271 citing FDRE, Plan Commission 'Growth and Transformation Plan II (2015/16- 2019/20)' (GTP II) (May 2016)

⁶² Ibid 271

CRPRS; and the other is development of Urban Landholding Registration which has four sub-activities among these are Preparation of laws, Standards, and operational manuals to support the implementation of the legal cadastre, as well as staff training.⁶³

Updated Urban Land Development and Management Policy and Strategy, which was prepared by the Ministry of Urban Development and Housing (MoUDH) in August 2013 sets out a range of activities to ensure that systems for urban land development and management are a foundation and driver for development. ‘The vision of this Urban Land Development and Management Policy and Strategy is to create a land development and management system that serves as a basis and vehicle for the development of Ethiopia’s political economic transformation process.’⁶⁴ A key policy objective was registering urban landholdings. Registration of immovable property rights (or land holding rights) ensures economic development and growth. This could be achieved by granting security of tenure, recognizing and securing property rights and facilitating free market transactions in property rights.⁶⁵ To implement the Urban Land Development and Management Policy and Strategy, MoUDH has put considerable effort into developing the legal and regulatory framework for the legal Cadastre registration. Thus, urban landholding registration proclamation no 818/2014, urban landholding adjudication and registration regulation 324/2014, including cadastral surveying regulation no 323/2014, directives, and standards have been enacted concerning urban landholding adjudication and registration and cadastral surveying matters. But the primary reference for all laws that establish urban landholding registration and information agency is the federal urban real property registration and information agency establishment council of minister’s regulation 251 of 2011.

4.2. Institutional Arrangements

The Federal Urban Real Property Registration and Information Agency (FURPRIA) is responsible for urban landholding registration established by Regulation 251 of 2011. The Agency was established as an autonomous federal government organ having its own legal

⁶³ Review of the Urban Legal Cadastre of the Government of Ethiopia: Issues and Policy Recommendation Report, (World Bank Group, 2016) 3-4

⁶⁴ Urban Land Development and Management Policy and Strategy of Ministry of Urban Development and Housing, (2013 G.C) 27

⁶⁵ Ibid 23

personality.⁶⁶ The mandate (power and functions) of the Agency, according to the regulation of council ministers, are initiating real property registration policies, laws, implementation methods; and legal cadastre standards; and ensure their uniform implementation in all urban centers throughout the country. The agency is also mandated to coordinate federal and regional urban real property registration institutions, create a uniform database system of urban real properties so that it be the centre of national real property databases.

The registration of urban real property rights was started earlier in Addis Ababa City when Urban Real Property Registration and Information Agency(URPRIA) was established under proclamation 22 of 2010, as part of Integrated Land Information Management Project(ILIMP) commenced following the ineffectiveness and failure of the 1996 cadastral registration project of Addi Ababa City Administration with the aim of registering all urban real property for taxation purposes.⁶⁷ Later the Urban Land Holding Registration and Information Agency (LHRIA) was established in Addis Ababa City Administration based on the Re- establishment Proclamation 45 of 2015 on the model of the Federal Urban Lanholding Registration and Information Agency (FULHRIA). The Agency also has its registration offices at each the sub cities and is made responsible directly to the Mayor. The registration offices at sub city unit carry out their function of adjudication and registration of all urban landholdings within their administrative boundary.

However, the establishment of registering institution seems superseded where the authority to initiate policies, laws and standards regarding urban land registration given to the Ministry of Urban Development and Construction (MoUDC) under the proclamation 1097/2018, Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia to whom the Agency is made accountable.⁶⁸ It is the Ministry given the authority to direct and coordinate the overall activities and performance of the Agency.⁶⁹ The same is true for Addis Ababa City Administration under Addis Ababa City Government Executive Organ Re

⁶⁶ Art 3(1) of Regulation 251 of 2011

⁶⁷ Zerihun Amdemariam Berisso, 'Implementation Practice : Real Property Registration Systems in Developing Countries : Confluence of technological , institutional and organizational requirements in the Addis Ababa Project' (2013)

⁶⁸ Art 33(13)(a) of Proclamation 1097of 2018

⁶⁹ Art 10(2) of Proclamation 1097of 2018

Establishment proclamation 64 of 2019 where the registering institution is made accountable to an executive body. The independence of an institution is indispensable regarding having its own objectives and strategy. The registering institution (Agency) would not have such independence where it is made accountable to the ministry and it is the ministry that initiate policy and strategy in relation to registration of legal cadastre. The task of registering landholdings in all urban centers of the country and realizing a national integrated parcel based land information system should not be regarded as an easy task. It would have paramount significance in property right protection and in the developmental endeavor of the country. The institution should be organized in a way independent to have its own objectives and strategy as an institution and would be able to initiate policy and strategy of its own. Unless the institution would not be successful and overwhelmed of its function whenever made its function is to be directed and coordinated by another organ. It has to be given authority as an institution to direct and coordinate its function.

4.3. Prerequisites for Urban Landholding Adjudication and Registration

The prerequisites for urban landholding adjudication and registration enumerated under the law without which undertaking urban land registration would not be possible. These are first defining the administrative boundary of the urban centre through a line map; and secondly, the urban centre plan with reference to the administrative boundary shall be endorsed by the authorized body as having a legally binding effect.⁷⁰ These are stated under the law as mandatory preconditions to be fulfilled by city administration. With the fulfillment of these preconditions the law has prohibited adjudication of urban landholding. Once such an urban centre is identified, a land adjudication neighborhood will be established in an area. Therefore, areas in an urban centre must have a local development plan and regularization of informal landholdings (illegal holdings) must have been completed to be identified as urban centres for the establishment of a landholding adjudication neighborhood.⁷¹

The establishment of adjudication neighborhoods (LAN) shall be carried out by urban administration by concerning urban administration which is an authoritative body designated by law. ‘In doing so the concerned urban administration shall first cause the preparation of an index

⁷⁰ Art 5 of Proclamation 818 of 2014

⁷¹ Article 10(10) of Proclamation 818 of 2014

map of an urban holding adjudication neighborhood and which it will be prepared according to sequentially the national map design and cadastral index map standard.⁷² Landholding adjudication neighborhood is defined as ‘an area having clearly identified boundary on the ground and on line map and containing consecutive number and identification name in which systematic adjudication activity is carried out.’⁷³ No systematic land adjudication may be performed out of the adjudication neighborhood specified by a public notice to be issued by a region or urban administration.⁷⁴

The public participation due in implementation of systematic adjudication and registration. Before the commencement of field adjudication works consensus shall be reached upon the significance of urban landholding adjudication and the procedure thereof through public discussion with urban residents. Public awareness must be created with regard to the objectives of adjudications, required procedures, grievance submission and decision making.⁷⁵ There must be three community representatives to be selected from among the residents in the adjudication neighborhood and serve as observers.⁷⁶ It is the duty of the adjudication officer to explain how the adjudication process will be held and, clarify the rights and responsibilities of the residents living in the adjudication neighborhood and also clarify questions from the residents. In the same meeting the adjudication officer causes the selection of three representatives/committee.

Public notice shall be announced in the adjudication neighborhood through all convenient electronic and print media and cause the submission of application by residents. The public notice shall state that any person who claims having rights and interests in a parcel within the landholding adjudication neighborhood shall submit a written landholding adjudication request within the specified time and place in person or through his agent. The public notice shall contain: the site plan and boundaries of the adjudication neighborhood and indicates rights, restrictions and responsibilities. The announcement shall be posted on a notice board to be

⁷² Article 12 of Proclamation 818 of 2014

⁷³ Article 2(13) of Proclamation 818 of 2014

⁷⁴ Article 11(2) of Proclamation 818 of 2014

⁷⁵ Art 12(2) of Regulation 251 of 2011

⁷⁶ Art 12(4) of Regulation 251 of 2011

prepared in the landholding adjudication neighborhood and on the notice board of the woreda administration where the neighborhood is located.

4.4. Completion of Adjudication and Public Display

Adjudication officer notify publicly the result of parcels adjudicated within the adjudication neighborhood. The adjudication process obviously involves verifying landholding use right, demarcation and survey, preparation of cadastral index maps qualified landholders list must be displayed in a public place within the adjudication area for 15 days. During this time all concerned parties should be able to view the documents to check that the data is accurate and may lodge a complaint if they are not satisfied. Adjudication officer may correct any errors and omissions. But any changes to the record may only be made if they have the consent of those whose interests are affected by the alteration. The purpose of public display within a limited period of time is to help ‘landholders aggrieved by a decision of the adjudication officer on adjudication matters may appeal to the grievance handling tribunal within fifteen working days from the date of announcement of the completion of adjudication.’⁷⁷

4.5. Grievance Handling Tribunal

Urban landholding adjudication grievance handling tribunal having the power to examine and decide on land adjudication related grievances shall be established at lower level administration or sector land administration.⁷⁸ The Tribunal shall constitute eight members one from each of five adjudication neighborhoods and three representatives from land administration experts in the local department of land management. The council shall be chaired by representatives of the local government. These activities are done according to Article 16 of the Directive No. 61/2018, on the procedures to establish public participation.

In the adjudication process dispute may arise either in the process of field adjudication or during the final public display of adjudication records. If disputes arise during field adjudication and the dispute is boundary dispute, the adjudicating officers will invite the disputing parties to conciliate their conflict. If this fails, the observing committee has a role to attempt to conciliate

⁷⁷ Article 17(2) of Proclamation 818 of 2014

⁷⁸ Art 22(1) of Regulation 251 of 2011

the dispute. If the dispute cannot be resolved, the issue may be taken to the adjudication grievance handling council. If the dispute is concerning urban landholding use rights the parcel will be recorded as disputed and cannot be adjudicated to set the landholding use right. However, the boundary of the parcel will be demarcated using available documents. The dispute will then pass to the landholding right providing institution to let the institution settle the issue.⁷⁹

4.6. Adjudication of Urban Landholding Right at Kirkos sub city

The process of adjudication of urban landholdings neither creates or alters the existing right rather recognizes existing interests based on ascertainment of facts and evidence. ‘It is adjudication of urban real property both a parcel of urban land or parcel of land together with immovable property on land such as buildings.⁸⁰ Announcement of adjudication by the registration office at the sub city presupposes the declaration of adjudication section by Addis Ababa City Administration and preparation of cadastral map.⁸¹ Adjudication neighborhoods should not be declared without prior declaration of the adjudication section by city administration. The Declaration of adjudication section comprises five adjudication neighborhoods. Each of them consists of not more than two hundred parcels. It is after the declaration of adjudication section and fulfilling preconditions set by law such as securing public participation by creating awareness about the purpose of adjudication and selecting committee observers of representatives of the residents, the registering office announce the adjudication neighborhood publicly with all the convenient ways and set time for application to be made by residents claiming adjudication of their landholdings and provision of document evidencing title of property ownership(use right).⁸² At the same time the registering office at the sub city announces the right creation institution to provide parcel files within the adjudication neighborhood declared and this is basically made official by writing a letter.⁸³ The right creation

⁷⁹ Article 26 of Directives 61 of 2018

⁸⁰ Art 2(4) of Regulation 251 of 2011

⁸¹ Interview with Eyoel Liben, Head of Kirkos Sub City Urban Landholding Registration and Information Agency, 12 March 2020

⁸² Interview with Kassahun Tadesse, Adjudication and Cadastral Activities Team Leader at Kirkos Sub City, 16 July 2021

⁸³ Ibid

institution has the duty bound to provide reliable and readily available parcels information required by registering institutions. Prior file management is also supposed to be held by the right creation institution which involves validating and re-sorting existing parcel files and possibly recording key information in a database. ‘File management by right creation institution includes the sorting of existing paper files into geographic order, the identification of deficiencies on basic data in these old existing files, the preparation of strategies to resolve identified deficiencies and digitizing or recording key information in a database.’⁸⁴ It helps reduce deficiencies of parcel information during adjudication and helps registering institutions to get reliable parcels information and to run adjudication without difficulty. ‘The necessary documents would be of lease contract both possessions of private and real estate possessions under lease contract, books or receipts for old possession, documents of government houses, documents of government possessions recorded under land bank, serves as parcel information or documents of title denoting the legality of possession and other obligations attached to the landholdings.’⁸⁵ It is after securing the parcel information that the adjudication officer starts to commence the activities of field adjudication in a given adjudication neighborhood. ‘The whole adjudication activities would be achieved by technical sections organized under an adjudication team to be led by an adjudication officer. These are adjudicators, surveyors and boundary demarcation.’⁸⁶

Adjudication mainly involves two things: verifying title (by verifying documents) and conducting cadastral survey. The ascertainment of existing interests based on the evidence presented by the person claiming to be the right holder and with the evidence of the organ that permitted the right.⁸⁷ Ascertainment of existing rights based on provided evidence usually involves scrutinizing the legality of document of title and its correspondence or equivalence with the results of cadastral survey i.e. the size of parcel. The other task is (adjudication) conducting

⁸⁴ Solomon Kebede, Alexiuss Antoni, ‘Piloting Urban Land Systematic Adjudication and Registration in Ethiopia’ (2019) 16-17

⁸⁵ Interview with Eyoel Liben, Head of Kirkos Sub City Urban Landholding Registration and Information Agency, 12 March 2020

⁸⁶ Interview with Hassan Mosa, Director of Urban Landholding Adjudication and Registration, Addis Ababa City Administration Urban Landholding Registration and Information Agency, 27 August 2021

⁸⁷ Art 14(1) of Proclamation 818 of 2014

cadastral surveying. Surveying the spatial extent of a parcel and its boundary demarcation. Hence, the role of the right creation institution has paramount significance in successful completion of the adjudication process by organizing and providing parcel files for adjudication and managing deficiencies in parcel files together with rendering decisions on matters referred to by registering institution in the process of adjudication.⁸⁸ Resolution of cases of dispute and notifying the same to registering institution within the time frame as prescribed in the law is indispensable. The registering office at Kirkos sub city has gone several mile stone 'where 16104 (sixteen thousand one hundred and four) urban landholdings have been registered following the completion of adjudication process in the sub city since 2015, time when legal cadastre registration was started in the city administration. From among these 3489(three thousand four hundred eighty nine) landholdings registered in the year 2019/2020.⁸⁹

The process of field adjudication has been taking longer than as is prescribed in the law and that it is commonly two years and above.⁹⁰ This affects both landholders whose right to transfer title should be suspended. Not only does it take longer time to complete adjudication but also enormous amounts of urban landholdings remain under dispute registry. This is due to the factors mainly attributable to the failure in integration and collaboration with the right creation institution and other necessary stakeholders. At the city administration level 201,316 (two hundred and one thousand three hundred sixteen) urban landholdings have been registered at the city administration level since 2015 G.C the time when legal cadastre registration was started. There have been 41000 (forty one thousand) urban landholdings under dispute registry until recently.⁹¹ Different measures were taken by the Agency to mitigate the large number of landholdings in the dispute registry. Among these the measures taken to resolve dispute files was holding up the declaration of new adjudication neighborhoods during the past three years and

⁸⁸ Art 10(5), 14(2),(3) of Proclamation 818 of 2014

⁸⁹ Interview with Hassan Mosa, Director of Urban Landholding Adjudication and Registration, Addis Ababa City Administration Urban Landholding Registration and Information Agency, 27 August 2021

⁹⁰ Ibid

⁹¹ Ibid

tried to reduce to 24000 (twenty four thousand) remaining currently under dispute registry at city administration level.⁹²

According to Kirkos sub city a total of 3285(three thousand two hundred eighty five) dispute cases are under dispute registry in the year 2020/2021 G.C and referred to the right creation institution. The remaining 966(nine hundred sixty six) landholdings still do not get resolved and transferred to the next year.⁹³ The matters are composed of cases including disputes such as urban landholding (use) right disputes, deficiency of document of title or parcel information, inconsistency of documents of title and surveying results (measurements).

Besides the limitations in the legal provisions there is a defect in institutional integration with right creation institution. Also there is no established mechanism of accountability between the institutions. There has been failure by the right creation institution to discharge its institutional responsibility to provide organized parcel information during adjudication. Moreover, ‘despite the insufficiency of fifteen days of resolving dispute cases and notifying’,⁹⁴ it takes even longer time by the by right creation institution to give responses of dispute matters. As a result the process of field adjudication requires longer time than prescribed in the law.⁹⁵ There has been an experience of signing a memorandum of understanding with the right creation institution adopted as a solution by registering institution. But has not brought a significant solution for the problem at hand.⁹⁶ Apart from the problem of institutional integration questions, there are legal limitations delaying the process of adjudication. Where the law does not suspend other rights than only transfer of title of urban landholding during adjudication. Landholders claim services other than transfer of title such as contract of mortgage. When the service is meant to be given, it causes delay in the process. The other is limitation is failure on the side of department of Urban Land Bank department under Urban Land Development and Management Office properly manage the

⁹² Ibid

⁹³ Interview with Kassahun Tadesse, Adjudication and Cadastral Activities Team Leader at Kirkos Sub City, 16 July 2021

⁹⁴ Interview with Hassan Mosa, Director of Urban Landholding Adjudication and Registration, Addis Ababa City Administration Urban Landholding Registration and Information Agency, 27 August 2021

⁹⁵ Ibid

⁹⁶ Ibid

recordation of information about government possessions such as roads, parks, green areas, reserves and unalienated urban lands and seek the registration of the same by producing evidences of recordation.⁹⁷

On the other hand, the right creation institution at the sub city, according to the chief executive officer of Urban Land Development and Management Office, claiming as if the registering institution is responsible for referring back massive parcel files claiming deficiency (as if they do not have sufficient document of title evidencing landholding right) while almost all the parcel files have the necessary evidence capable of proving the existing rights and obligations.⁹⁸ As a result, there is a huge amount of back and forth of parcel files between the two institutions. That it is not only burdening the service delivery of the right creation institution but also capable of delaying the adjudication and registration process. The problem still exists as both institutions are established having mandated do with urban lands but there is difficulty to ensure the integration or coordination between the institutions.⁹⁹ Urban landholdings put under dispute registry for silly and manageable disputes, no proper recordation of data by registering institution about cases get resolved by right creation institution and repetition of cases referred to right creation institution. Frequent relocation or changing of officials in the registering institution and absence of developed way of transfer of information among them. Moreover, there is no established platform or procedure to deal on common matters and resolve disputes by the two institutions and communications are made mostly by letter. No common process council and management council where the registering institution is directly responsible to the Mayor.¹⁰⁰ These and other causes exacerbated the challenge that is absence of the necessary integration between the institutions and above all the delay in adjudication process. The two institutions have been trying to run such cases by establishing an ad hoc committee but not successful. That it is also not legally supported.

⁹⁷ Interview with Eyoel Liben, Head of Kirkos Sub City Urban Landholding Registration and Information Agency, 12 March 2020

⁹⁸ Interview with Endale Yemerga, Chief Executive Director of Urban Development and Management Office at Kirkos Sub City, 16 July 2021

⁹⁹ Ibid

¹⁰⁰ Ibid

4.7. Registration of Rights, Restrictions and Responsibilities

The completion of adjudication shall be publicly announced through public notice in an adjudication neighborhood after public display adjudication results and the procedure for public complaint is respected. Accordingly, adjudication shall be deemed completed and shall be announced where no appeal has been lodged to grievance handling tribunal, the time limit for lodging grievance has expired or where the tribunal has notified its decision on all grievances lodged to it.¹⁰¹ The adjudication record is then regarded as being final for all parcels that are not subject to disputes. The adjudication record signed by the adjudication officer should then be delivered to the registration and service directorate for the purpose of registration of rights, restrictions and responsibilities and issuance of certificate. The documents to be submitted registering and service directorate are documents of title received from the organ authorized to permit urban landholding right, a signed adjudication register, a base map, the responses of the organ authorized to grant a right for the request made pursuant to Article 14(3) of this Proclamation and the leaves corresponding to each parcel.

An important aspect of urban landholding adjudication and registration is therefore to create a new register of landholdings based on a process that formally recognizes existing rights.¹⁰² Therefore, the law presumes all the urban landholdings in adjudication locality and finally the urban centre will be subjected to adjudication thereby all documents by which rights, restriction and responsibilities on a parcel and the legal boundary of which is surveyed and demarcated during adjudication shall serve as conclusive proof for registration. Legal cadastre registry will then serve as sole source of urban land information.

But there are limitations in the process of achieving the purpose of the law where a significant amount of urban landholdings remain under dispute registry without adjudication and registration completed. The sad truth is that there has been absence of mechanisms or difficulty of collaboration with the right creation institution and no clear procedure of relieving urban landholdings registered under dispute registry. Which definitely hinders the manifestation of the purpose of registration of urban land.

¹⁰¹ Article 18 of Proclamation 818 of 2014

¹⁰² Review of the Urban Legal Cadastre of the Government of Ethiopian: Issues and Policy Recommendation Report, (World Bank Group, 2016) 13

4.8. Collaboration with Institutions

Collaboration of institutions with different mandate is indispensable for the effectiveness of adjudication and registration of urban landholding rights. The collaboration of institutions considered to be stakeholders should be achieved. Among those stakeholders Urban Land Development and Management Bureau at AACG and its respective office at the sub city has mandate to permit urban land use right and authority to regularize informal settlements. Therefore the institution is considered to be right creation institution and that it has to provide information about urban landholdings for adjudication of rights, restrictions and responsibilities on urban landholding. It should be ascertained based on facts and evidences to be provided to registering institution during field adjudication. Beyond provision of land information(parcel files) the right creation institution has the authority to solve disputes arising during field adjudication. Therefore, effective collaboration with right creation institution and other stakeholders such as Addis Ababa City Government Houses Corporation and others is indispensable to achieve the purpose of the law. That this institutions are providers of evidence of title and applicants for registration of urban landholding right. Unless application for registration and evidence of title is provided the adjudication and registration of urban landholding rights would be difficult. Therefore, stakeholder institution should cooperate in providing evidence of title and making timely request for registration and dispute resolution during adjudication.

In Addis Ababa City urban landholding adjudication and registration begun in 2015 with a purpose to complete the process of adjudication and registration of urban real property right and realize modern legal cadastre and to have an integrated urban real property management system by 2022 G.C¹⁰³ However, the process of urban legal cadastre registration has continued to be implemented in a slow phase. ‘The urban landholding adjudication and registration was not effective for about three years after the commencement of urban land registration until 2016/2017. The main reason was the non-completion of regularization and lack of the

¹⁰³ Institutional plan of the Urban Landholding Registration and Information Agency of Addis Ababa City Government

implementation of local development plan (LDP) in the city.¹⁰⁴ The tasks are mainly the authority and responsibility of Urban Land Development and Management Bureau of Addis Ababa City Government, the right creation institution.

Without prior regularization informal settlements and proper implementation of local development plan adjudication would not be held. Apart from such tasks the right creation institution has to ‘organize and submit to the registering institution, documents evidencing the right it has already granted and the restrictions and responsibilities it has already registered and resolving manageable disputes in the course of filed adjudication and referred to it by registering institution.¹⁰⁵ This can be mentioned as a delay in settling dispute cases and cases of deficiency in parcel files delivered during adjudication. As a result, 410000 (forty one thousand) urban landholdings have been under dispute registry and identified as dispute files until recently at city administration level. The Agency has been obliged to hold up the process of adjudication and declaring new adjudication neighborhoods because it has to resolve dispute files. In this way it could be able to reduce the number into 24000 (twenty four thousand) dispute files currently remaining under the dispute registry. This could be an indication for absence coordination of process with the right creation institution. The same would apply to Kirkos sub city where 3285(three thousand two hundred eighty five) dispute files have been referred to the right creation institution in the year 2020/2021 G.C and 966(nine hundred sixty six) parcel files remain unresolved and registered under dispute registry. ‘The main causes for the large number of dispute cases are absence of collaboration and lack of accountability mechanism established between institutions responsible to cooperate for successful implementation of urban landholding adjudication and registration.¹⁰⁶ There has been an outlook of considering the registration of urban landholdings is not the task and duty of the right creation institution and sometimes justifying institutional problems as a good cause for not collaborating and responding timely.¹⁰⁷ The registering institution has no mandate on the right-creating institution to influence the

¹⁰⁴ Interview with Hassan Mosa, Director of Urban Landholding Adjudication and Registration, Addis Ababa City Administration Urban Landholding Registration and Information Agency, 27 August 2021

¹⁰⁵ Art 10(5) and Art 14(2)(3) of Proclamation 818 of 2014

¹⁰⁶ Interview with Hassan Mosa, Director of Urban Landholding Adjudication and Registration, Addis Ababa City Administration Urban Landholding Registration and Information Agency, 27 August 2021

¹⁰⁷ Ibid

enforcement of its duty rather than reporting the cases to a board. This also takes time to deliver the issues to the body and get a decision. There has been an experience of signing memorandum understanding with right creation institutions targeted to avoid the challenges but remain unable to achieve the objective. Mainly because it was not supported by legal provisions and absence of established procedure of accountability.¹⁰⁸

4.9 Measuring the Success of Legal Cadastre Registration

The law also has a clear intention of achieving the purpose of fiscal cadastre after the realization of the establishment of a legal cadastre system. This also will have an effect on property valuation for taxation purposes and having an integrated land information system (database) will have paramount significance in ensuring the payment of appropriate capital gain tax by a person who possesses land and owns property in different urban centres.¹⁰⁹ Therefore, the process of urban landholding adjudication and registration should be implemented in a timely fashion. This can be done by successful completion of adjudication of rights, restrictions and responsibilities on landholdings within the adjudication neighborhood. As a result, timeliness of the adjudication process and completeness of the legal cadastre register will be achieved. Then all the parcels of land within the urban centre could be identified in the map and integrated to the attribute data in the registry by unique parcel identifier.

Therefore, there are criteria of measuring the success of implementation of cadastre according to the FIG statement on cadastre.¹¹⁰ It includes security of the system, clarity and simplicity, timeliness, fairness, accessibility, cost and sustainability. Legal cadastre is one form of cadastre according to the definition given by the FIG statement on cadastre based on the purpose of which cadastre is established. Therefore, based on the above criteria's timeliness and sustainability measurements are convenient to determine whether the ongoing urban landholding adjudication and registration at Kirkos sub city is running successfully or not. Timeliness criteria concerned with the system's provision of up-to-date information in a timely fashion and the system should

¹⁰⁸ Ibid

¹⁰⁹ Art 5(4) of Regulation 251 of 2011

¹¹⁰ The International Federation of Surveyors (FIG), Statement on the Cadastre, No. 11 (1995) 12-13

also be complete; that is all parcels should be included in the system.¹¹¹ Therefore, all the rights, restrictions and responsibilities on urban landholdings within the declared adjudication neighborhood should be ascertained successfully together with the person (subject) exercising the rights and registered accordingly. The registry would then be complete having all the information of the parcels recorded in the registry. Sustainability criteria believe that there must be mechanisms in place to ensure the system is maintained over time. This includes procedures for completing the cadastre in a reasonable time frame and for keeping information up-to-date.¹¹² If there is difficulty in adjudication of rights and unable to attain comprehensive coverage of all urban landholdings in the adjudication neighborhood or urban centre and there are factors delaying or obstructing the process that could be a sign of challenges influencing the success of legal cadastre registration. It has been proved by the qualitative data that large amounts of urban landholdings remain under dispute registry in Addis Ababa City and in the selected case study area. Moreover, the adjudication process takes longer than as is prescribed in the law.

4.10. Conclusion and Recommendation

4.10.1 Conclusion

Urban landholding adjudication and registration has been underway in AACG since 2015 G.C. following the establishment of the necessary legal and institutional framework. The Addis Ababa City Urban Landholding Registration and Information Agency, has a plan to complete the process of adjudication and registration of all urban landholdings within the administrative limit of the city and realize secured, reliable and modern legal cadastre system and integrated urban real property management system by the end of 2022 G.C. However, realizing the completion of adjudication and registration of all the urban landholding rights according to the plan remains difficult. It would be difficult because the apparent poor land right recording system, the existing problems of regularizarion of informal settlement and old possessions having no established urban land use right and absence of collaboration with stakeholder institutions and mechanism of accountability for an institutions failing to discharge their duty. Therefore, adjudication of urban landholding rights has been taking years in contrast with the prescribed time by the law and more than this massive urban landholdings remain without adjudication being completed and

¹¹¹ Ibid

¹¹² The International Federation of Surveyors (FIG), Statement on the Cadastre, No. 11 (1995) 13

registered under dispute registry. The institutional plan to complete the adjudication and registration of urban landholdings with in the city remain to be considered as over ambitious where there is inherent problem in land right recording system and the existing problems of regularization lans use right in the city.

Although budgetary constraints, manpower and issues of capacity building, shortage in technical facilities and surveying equipments are apparent. The main causes for the existing challenges according to their rank of contribution are lack of collaboration with right creation institution and other stakeholders, absence of mechanism of accountability for failure to discharge their duty by institutions, absence of legal framework for the registration and protection of landholdings under government administration especially lands on which public buildings are built, limitations and unclarity in the provisions of the law and the non-implementation of law. The issue of collaboration with the right creation institution and other stakeholders is not yet well. There is no established procedure for collaboration with institutions and deal on matters delaying the adjudication process. The target of this collaboration is only to ease out manageable disputes, facilitate the provision of reliable parcel files and to solve deficiency in parcel files and to avoid the lengthy time it takes by right creator to settle disputes and notify it to registering institution. Government institutions administering government possessions shall discharge their duty by ensure the registration and protection of those landholdings. This mainly by presenting evidence of title and requesting the registration of government possession in favor government institution administering the property. However, there is no established mechanism of accountability for an institutions expected to collaborate with registering institution and institutions administering government possession for failure to ensure the registration and protection of government landholdings.

The existing legal constraints are absence of legal framework for the registration and protection of landholdings under government administration especially lands on which public buildings are built according to Art 30(2) of Reg. 324/2014 and the non-establishment of an organ responsible to ensure the registration and protection of those possessions, absence of clear procedure for resolution of urban lanholdings under dispute registry, suspension of only transfer of title during adjudication, no mechanism of accountability for failure to discharge their duty by institutions, the insufficiency of fifteen days of time to respond cases referred to right creation institution and

absence of the concept of compulsory registration in the law and the non-implementation of the law and the non-establishment of advisory commission at wereda or kebele level with the purpose to coordinate the process of adjudication. Unless given due attention to resolve the matters ascribing to legal and institutional constraints are capable of delaying and obstructing the purpose of legal cadastre registration.

4.10.2. Recommendation

- ✓ There has to be clear procedure to collaborate and mechanism of accountability for an institutions failure to cooperate and discharge their respective responsibility. Especially right creation institution having mandate to permit urban land use right has paramount significance in the process of adjudication and registration of urban landholding right by providing reliable and organized parcel files and resolving disputes. Institutions such as the Urban Land Development and Management (right creation institution), Addis Ababa City Government Houses Cooperation, Land Bank and Development and such other governmental institutions administering government possessions have duty bound to cooperate and discharge their duty either by providing parcel file and settling disputes or by providing evidence of title and ensuring the registration of urban landholding either private or government possessions. The law has not clearly established mechanism of accountability for failure to discharge their respective responsibility. However, it is indispensable to ensure collaboration of institutions by law and mechanism of accountability for failure to discharge their respective responsibility by institutions. Timely provision of reliable parcel file and resolution of disputes cases and ensuring the registration and protection of government possession by institutions administering the government possessions can be considered as duty of these institution in relation with adjudication and registration of urban landholding rights.
- ✓ Revising the law to avoid constraints in the legal provisions is also necessary. The existing constraints in the law are not exhaustively listed here but some them are, suspension of only transfer of title during adjudication, absence of procedure for reviewing landholdings under dispute registry, the unnecessary procedure of application (2nd time application) for registration after completion of adjudication by right holder, the insufficiency of fifteen (working) days of time to respond to cases referred to right

creation institution and others. Rights other than transfer of title such as contract of mortgage services or attachment are claimed by right holders and delivering the service has an impact on restricting or delaying the process. The concept of compulsory registration must be incorporated in the law which is compatible with the objective of registration to have a national integrated land information system.

- ✓ There has to be legal framework and an organ established responsible for the registration and protection of landholdings under government administration especially lands on which public buildings are built according to Art 30(2) of Reg. 324/2014, and an organ responsible to ensure the registration and protection of landholdings under government administration shall be designated by law. There are landholdings with public buildings everywhere in the country which needs clear legal framework and an institution responsible to undertake the responsibility to ensure the registration and protection of these landholdings under government administration. This only regarding government possession with public building exclusive of government possession administered by Addis Ababa City Government Houses Cooperation, Land Bank and Development and other institutions for the purpose of greenery and urban beautification.
- ✓ National structure of urban landholding registration institution (uniform structure) has been established within the context of wider national strategy to have an integrated parcel based land information database despite the constitutional principle of division of power under the federal structure of the FDRE government. Registration of land is not an end by itself rather it is a means to an end. Therefore, should not be considered as land administration aspect which given to regions under the FDRE constitution based on division of power. Currently, regions are given to establish their own regional urban land registering institution which is totally in contrast with the idea of establishing national integrated land information database centrally. It would be difficult to maintain common or uniform standards in implementation of legal cadastre registration. Structuring regional organizations, building organizational capacity, determining staff and budget are to be determined by regions. So that there will be variations between regions and results in problems of uniform implementation of legal cadastre. An indication for this is based on empirical evidence there is no common integrated database centre established yet.

- ✓ The institutional independence of registering institution has to be give due account in order to have its own objectives and strategy as an institution. However, currently the institution is made accountable to Ministry of Urban Development and Construction where it is the authority of the ministry to initiate policy and strategy of urban landholding registration as well as direct and coordinate the function of the registering institution.

Bibliography

- Asmamaw Yehun et al., 'Evaluation of Current Urban Cadastre Practice in Ethiopia: Case of Bahir Dar, Gondar and Dessie(8804)', (2017) FIG working week 2017
- Benjamin Quaye, 'Factors Impacting on Effective Land Title Registration - A Perspective from Ghana' (2020) 1(2) Journal of Planning and Land Management
- Berhanu K., Rohan M., J. Zevebenbergen, 'Evolving urban cadastres in Ethiopia: The impacts on urban land governance' (2015) Land Use Policy 695
- Daniel Steudler, 'A Framework for the Evaluation of Land Administration Systems' (Dphil Thesis, The University of Melbourne 2004)
- G. Navratil & A. Frank, 'Process in a Cadastre' (2004) 28(5) Computers, Environment and Urban System
- Ian Phillip Williamson, Cadastres and Land Information Systems in Common Law Jurisdictions, Survey Review, 1985
- J. Zevenbergen, Systems of Land Registration: Aspects and Effects (Netherlands Geodetic Commission 2002)
- Likinaw Demissie Dessie, 'Evaluating the Implementation Performance of Legal Cadaster Registration in Addis Ababa City Administration: The Case of Addis Ketema Sub-City' (MSc Thesis, Bahir Dar University2020)
- Melkamu Belachew Moges, 'Achievements and Gaps in the Application of Land Registration System in ANRS: The Case of West Gojjam'(2020) 14(1) Mizan Law Review 31
- Muradu Abdo(ed), Ethiopia's Urban Land Question: Focus on Access to Justice and Dispute Resolutions (Ethiopian Civil and Commercial Law Series, Volume-X, Addis Ababa University School of Law 2020)
- Review of the Urban Legal Cadastre Of the Government of Ethiopian: Issues and Policy Recommendation Report, (World Bank Group, 2016)
- Solomon Kebede, Alexiuss Antoni, 'Piloting Urban Land Systematic Adjudication and Registration in Ethiopia' (2019)
- T. Bogaerts, J. Zevenbergen, 'Cadastral System – Alternatives (2001) Computers, Environment and Urban Systems 25
- T. Perera, 'Implementing Land Registration Systems in Sri Lanka: Being Pragmatic' (2010)Sri Lankan Journal of Real Estate

The International Federation of Surveyors (FIG), Statement on the Cadastre, No. 11 (1995)
United Nations Economic Commission for Europe, Land Administration Guidelines With
Special Reference to Countries in Transition (UN, 1996) [E/]ECE/HBP/96

Ying Jing, 'Assessing LARSI-Integrated Participation Procedure for Urban Adjudication in
China' (MSc Thesis, University of Twente, The Netherlands 2011)

Zerihun Amdemariam Berisso, 'Implementation Practice : Real Property Registration Systems in
Developing Countries : Confluence of technological , institutional and organizational
requirements in the Addis Ababa Project' (2013)

List of Policy and Legislative Instruments

- ✓ The Constitution of the Federal Democratic Republic of Ethiopia Proclamation 1 of 1995
- ✓ Federal Democratic Republic of Ethiopia, Planning Commission Growth and Transformation Plan II (2015/16 -2019/20)
- ✓ Federal Democratic Republic of Ethiopia Ministry of Urban Development and Housing (2013), Urban Land Development and Management Policy Directions and implementation Strategies, second edition, August 2013
- ✓ Federal Urban Real Property Registration and Information Agency Establishment Council of Ministers Regulation 251 of 2011
- ✓ Urban Landholding Registration Proclamation 818 of 2014
- ✓ Urban Lands Lease Holding Proclamation 721 of 2011
- ✓ Definition of Power and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation 1097 of 2018
- ✓ Addis Ababa City Government Land Holding Registration and Information Agency Re-establishment Proclamation 45 of 2015
- ✓ Definition of Power and Duties of the Executive Organs of Addis Ababa City Government Proclamation .. of 2019
- ✓ Urban Cadastral Surveying Council of Ministers Regulation 323 of 2014
- ✓ Urban Landholding Adjudication and Registration Council of Ministers Regulation 324 of 2014
- ✓ Urban Landholding Adjudication and Registration Directive 45 of 2015
- ✓ Urban Landholding Adjudication and Registration Amendment Directive 61 of 2018
- ✓ Standard 03/2015: Urban Legal Cadastre Standard
- ✓ Standard 05/2015: Urban Land Adjudication and Registration Standard

Lists of Interviewees

1. Interview with Hassan Mosa, Director of Urban Landholding Adjudication and Registration, Addis Ababa City Administration Urban Landholding Registration and Information Agency, 27 August 2021
2. Interview with Eyoel Liben, Head of Kirkos Sub City Urban Landholding Registration and Information Agency, 12 March 2020
3. Interview with Kassahun Tadesse, Adjudication and Cadastral Activities Team Leader at Kirkos Sub City, 16 July 2021
4. Interview with Endale Yemerga, Chief Executive Officer of Urban Land Development and Management Office at Kirkos Sub City, 16 July 2021

Appendixes

Appendix A:

A1: Interview for Director of Urban Landholding Adjudication and Registration, Addis Ababa City Administration Urban Landholding Registration and Information Agency

- ✓ When was the urban landholding adjudication and registration started in Addis Ababa City?
- ✓ What was the plan of the institution during the beginning of adjudication and registration of urban landholding? And how is the process of implementation of legal cadastre registration since the time of its start?
- ✓ What is the present status of adjudication and registration of urban landholding in Addis Ababa City Government?
- ✓ Why is it difficult to achieve according to the plan of the institution? And what are the main challenges so far identified hindering the efficacy of urban landholding right adjudication and registration?
- ✓ Are there limitations in the legal provisions affecting the process?
- ✓ Is there successful integration with right creation institutions in providing reliable urban landholding information and settling dispute cases during adjudication? If not, what would you propose to be improved?
- ✓ What measures have been taken to collaborate with institutions of right creation? Was it successful?

A2: Interview For Head of Registration Office at Kirkos sub City

- ✓ When was the urban landholding adjudication and registration started in Addis Ababa City?
- ✓ What was the plan of the institution during the beginning of adjudication and registration of urban landholding? And how is the process of implementation of legal cadastre registration since the time of its start?
- ✓ What is the present status of adjudication and registration of urban landholding in Addis Ababa City Government?
- ✓ Why is it difficult to achieve according to the plan of the institution? And what are the main challenges so far identified hindering the efficacy of urban landholding right adjudication and registration?

- ✓ Are there limitations in the legal provisions affecting the process?
- ✓ Is there successful integration with right creation institution in providing reliable urban landholding information and settling dispute cases during adjudication? If not, what would you propose to be improved?

A3: Interview for Team Leader of Adjudication and Cadastral Activities at Kirkos Sub City

- ✓ What is your function in the urban landholding adjudication and registration process? How many colleagues are there in the department in total?
- ✓ Could you explain what urban landholding adjudication is and how it is to be implemented? What problems have you met in the process of adjudication? What aspects are you expected to enhance?
- ✓ How long does it take to complete the activities of adjudication in a given adjudication neighborhood? What matters are supposed to be covered ?
- ✓ What is the role of the right creation institution in the process of urban landholding adjudication? Is there any standard operating procedure to cooperate with ?
- ✓ Do you think the right creation institution is cooperative in delivering organized parcel files and timely resolution of disputes cases referred to it?
- ✓ What are the main causes of disputes in the process of adjudication? How would it be resolved?
- ✓ What do you do if the right creation institution is not delivering parcel files timely? Or resolving disputes cases referred to ? What would be the impact of such unresponsiveness?
- ✓ What do you think is the fate of urban landholdings in the dispute registry? What measures would be taken by registering institution solve disputes cases under dispute registry ?
- ✓ How would you explain the legal and institutional challenges so far identified in the course of adjudicating the process?
- ✓ What do you propose either legal or organizational aspects that need modification?

A4: Interview for Chief Executive Officer of Urban Land Development and Management Office at Kirkos Sub City

- ✓ What is the role and responsibility of the right creation institution in urban landholding adjudication and registration?
- ✓ How would you cooperate with the registration office at the sub city?
- ✓ What are the procedures of provision of parcel files during adjudication? What procedures does your institution follow to organize parcel information before going to submit to the registering institution?
- ✓ How long does it take to respond to dispute cases and what are the challenges your institution faces to discharge the responsibility?
- ✓ What is the present status dispute resolution?
- ✓ What are the main challenges of collaboration with registering institutions during adjudication of urban landholding rights? Your institution in relation to urban land registration?
- ✓ What aspects do you feel necessary to enhance or to be improved in the course of integration with the registering institution?