



A Place To Call Your Own

1. Introduction

South Africa's social housing project is one of the largest state-subsidised housing initiatives in the world; it has delivered approximately three million units over the span of our 22 year democracy.¹ These houses have been provided through a variety of mechanisms, with the most prominent being the Integrated Residential Development Programme, resulting in the provision of small, low-cost houses to a qualifying individual, either for free or at a minimal charge. However, social housing in South Africa is still typically understood as medium- to high-density, subsidised, rental housing with different tenure options, but often excluding immediate ownership.² It is seen as a main driver for integration and as a means to combat apartheid spatial patterns, and uplift decaying city areas.

The idea for social housing was to provide shelter and basic services for poor citizens who could not afford to buy or build a house, but by the early 2000s the concept that such houses should become assets was introduced. Accordingly, the title deed was seen as critical to ensuring not only security of tenure, but also that poor households could use their houses as assets to build wealth. Recently, government has committed itself to speeding up the handover of title deeds to rental occupants; there are currently around 900 000 such occupants countrywide. The Department of Human Settlements hopes to clear the backlog by 2020, starting with 100 000 this year.³ This transfer of title (ownership) is imperative to unlock value for homeowners who can, at least in theory, further their economic ambitions by using the house as collateral.

2. The Value of a Title Deed

A title deed is a legal document that reflects the

ownership of a property. When a property is bought and sold and transfer takes place, the existing title deed is superseded by a new title deed which is executed in the Deeds Office through a signature by the conveyancer and the Registrar of Deeds.⁴ The title deed is, therefore, an important document as it is the owner's proof of ownership. According to a study by Shisaka Development Management Services,⁵ its key functions are that it:

- Protects rights
- Records changes
- Facilitates property transactions, and
- Facilitates financial transactions

In addition, title deeds are important as they provide individuals with an address, recognise the owner and their family as being part of the municipality, and enable ownership of the property to pass on to family members in the event of death. From a municipal perspective, ownership obliges the owner to pay property rates and service charges for services received, thereby contributing to the municipality's ongoing sustainability.⁶

The provision of title deeds to low income households – particularly those negatively impacted by apartheid – as a mechanism for poverty alleviation and social and economic betterment is a key poverty reduction strategy in South Africa. However, the reality of obtaining a title deed is different to the possibilities for betterment listed in theory. Theoretically, having a title deed means one can raise finance using the house as collateral but, practically speaking, most banks will be reluctant to grant the owner of an erstwhile 'social house' a loan. According to Lisa Steyn,⁷ the average resale price for social houses is R300 000, and banks will consider a building loan, for example, only if the property is valued at R600 000 or more. Steyn also notes that, while

banks are working on extending their operations to reach further down-market, they have to monitor their risks and comply with lending legislation. According to a research report by the Wits Centre for Urban and Built Environment Studies,⁸ holding a title deed also does not make selling easier. In the case of Reconstruction Development Programme (RDP) houses, the report speaks of a restrictive clause that requires the owner, if wishing to sell within the first five years of owning the house, to offer it first to the government, thereby leading many owners to sell their units informally.⁹

This situation highlights one of the difficulties associated with the provision of subsidised, but privately-owned, housing. On the one hand the owner, holding a title deed, ought to be free to sell as he or she sees fit, thereby realising the asset and maybe moving up the economic ladder. On the other hand, the state – having subsidised the original purchase – has the right to set conditions on any subsequent sale, thereby limiting the owner's rights. It is hard to expect the owner to forego an opportunity to profit by an advantageous sale; but at the same time it is undesirable that housing provided (even partly) by public funds should be sold for individual profit.

The problem is further exacerbated by the fact that informal 'sales' have resulted in a situation where many thousands of RDP houses have changed hands outside of the formal deed registration system. Since ownership in South African law passes by registration of title, those currently occupying such houses, even though they have paid for them, are not legally owners. They cannot use 'their' homes as security for a loan, and in the worst case, they could find themselves evicted with little or no recourse.

Nevertheless, in the ordinary course there are a number of benefits to holding a title deed. For example, being able to leave your property to your spouse or children in the event of death, thereby reducing conflict and contestation; being able to extend or otherwise modify the house knowing that the property is yours to do with as you please; and, as mentioned, being able to sell the property whenever it becomes necessary or is advantageous to do so. In addition, having a title deed remains hugely beneficial for raising finance, particularly if it is the next generation that mortgages the house.¹⁰ A small house with only basic facilities may not always be seen as 'wealth'

(or tangibly felt as such), but any house remains an important asset and constitutes a vital first step on the road to financial security.

Unfortunately, in South Africa there is a persistent backlog in issuing title deeds. In addition, transfer duty and the legal costs associated with the registration and transfer of property, tend to worsen the financial predicament of poor people. The transfer of title is often an expensive process that the economically disenfranchised cannot afford, and this – allied with bureaucratic inefficiencies – tends to add to the temptation to 'sell' properties informally.

3. From Renting to Owning

On 30th October 2016, the City of Cape Town announced that approximately 10 700 people occupying social houses (and who have been paying rent to the city) will be able to transfer the properties into their own names.¹¹ The houses will be transferred at a 'substantial discount' to qualifying legal tenants.¹² Civil society organisations, particularly Social Justice Coalition and the Greater Cape Town Civic Alliance, have welcomed this move but criticised the City for charging the poor a transfer fee. Phillip Bam, chairperson of the Greater Cape Town Civic Alliance, said that renters should be given their houses free of charge, since many have spent much of their lifetimes paying rent: "Some have lived in those houses for more than 30 years and have more than paid their worth."¹³ At present, prices range between R2 300 to R123 000, depending on the individual's circumstances.

Over the last 30 years, the City of Cape Town has transferred an estimated 54 000 houses to qualifying legal tenants. These transfers are subsidised by the City in conjunction with subsidy provisions in the enhanced discount benefit scheme, which is available to qualifying legal tenants who may be interested in taking ownership of their rental units.¹⁴ Mayoral committee member for human settlements, Benedicta van Minnen, said that the City wanted to encourage empowerment and redress through giving renters an opportunity to own their homes; the City also wanted to become more financially stable by reducing the rental stock that it manages.¹⁵

The Western-Cape provincial government is following a similar course of action. In Delft, for

example, title deeds have been issued to various elderly people who have been renting homes for many years; some have waited decades to legally call their homes their own. The provincial Minister of Human Settlements, Bonginkosi Madikizela, says this is part of the department's strategic goal to prioritise housing for the elderly and to give them "...a sense of pride and joy that they are owners of the property they live in."¹⁶ To date, the department has issued approximately 2 000 title deeds to the Delft community, and Mr Madikizela hopes that all of Delft will possess title deeds by the end of his term. An estimated R3.2 million was spent to meet the community halfway in paying their debt, Mr Madikizela said, and he added that it was government's duty to care for the disenfranchised.¹⁷

4. A Double-edged Sword

Issuing title deeds to tenants occupying rental units functions within a wider socio-economic context. While giving people the right to claim the unit as their own and, by extension, enable them to further their own socio-economic ambitions, may prove advantageous to the individuals concerned, there is a risk that the already significant backlog of social housing may increase as a consequence of tenant purchase. In turn, this may unintentionally shrink the number of people who can access public housing. According to Mick Byrne, tenant purchase proves advantageous insofar as it transfers wealth to working-class people in the form of home ownership, but it is a less-than-desirable scheme from a social housing perspective, and for the housing system as a whole.¹⁸

In any tenant purchase scheme, the householder in question goes from being a social tenant to being a homeowner, and the house itself goes from being part of the social housing stock to part of the private, owner-occupancy sector.¹⁹ Unless new social housing is being built to replace these units, the available stock declines. In a country like South Africa, where there is still a huge demand for rental housing, this creates an obvious problem. And the problem is exacerbated by the fact that most tenant purchases involve a steep discount for the tenant, meaning that the unit is sold for a price far below market value and below the cost of replacing the unit.

The argument that rent paid over the years by tenants should serve as payment, or part-payment, for the ownership of the unit does not sufficiently consider that the rents charged for social housing are usually very low, and often barely cover maintenance costs. According to Byrne, in countries where social housing is not sold to tenants, it eventually starts to produce a return and can be used by housing authorities as equity to draw down private finance for investment in social housing.²⁰ While giving tenants the opportunity for ownership constitutes a transfer of wealth to poor people, and allows space for upward socio-economic mobility, it needs to be considered that South Africa has a lengthy housing backlog and a very limited number of social houses are being built.

A further consideration applies to some social housing stock which is located in areas that have become fashionable, and where properties attract premium prices. Should the relevant municipality simply transfer ownership to these tenants at a subsidised cost, there is nothing to stop them selling the homes at market prices. This at once enriches a few individuals at the expense of the local ratepayers (i.e., the wider community) and deprives the community of a valuable asset which, if sold commercially, could fund much more social housing in other areas.²¹

5. Conclusion

Issuing title deeds to occupants of social housing is a popular idea among beneficiaries of such schemes, as well as pro-poor civil society organisations. A title deed represents the key that will unlock value for homeowners who have socio-economic ambitions. The home can be used as collateral when taking out a loan or sold to raise capital for other uses. However, there are a number of disadvantages specifically affecting those who have yet to gain access to social housing. While giving tenants title deeds creates a stable community – the idea being that you have a serious stake in your community when you own a home – more effort needs to be put into, first, decreasing the social housing backlog and, second, widening the opportunities for poor people to access such housing.

Danielle Hoffmeester
Research Assistant

-
- ¹ 'South Africa's Housing Conundrum' compiled by South African Institute for Race Relations (IRR). Available at: <http://irr.org.za/reports-and-publications/atLiberty/liberty-2013-south-africas-housing-conundrum>
- ² 'Social Rental Housing' compiled by the Centre for Affordable Housing Finance in Africa. Available at: <http://www.housingfinanceafrica.org/projects/social-rental-housing/>
- ³ Lisa Steyn. (2016). 'Title Deeds Backlog Trips up RDP Housing'. Available at: <http://mg.co.za/article/2016-04-14-title-deeds-backlog-trips-up-rdp-housing>
- ⁴ Investigation into the Delays in Issuing Title Deeds to Beneficiaries of Housing Projects funded by the Capital Subsidy' compiled and undertaken by Shisaka Development Management Services. Available at: <http://www.urbanlandmark.org.za/downloads/title-deed-delays-report-2011.pdf>
- ⁵ Ibid
- ⁶ Ibid
- ⁷ Lisa Steyn. (2016). 'Title Deeds Backlog Trips up RDP Housing'. Available at: <http://mg.co.za/article/2016-04-14-title-deeds-backlog-trips-up-rdp-housing>
- ⁸ 'The Social and Economic Impact of Land Titling in Selected Settlements in Ekurhuleni Metropolitan area' compiled by Wits Centre for Urban and Built Environment Studies. Available at: <http://www.birmingham.ac.uk/Documents/college-social-sciences/government-society/idd/research/social-economic-impacts/south-africa-case-study-report.pdf>
- ⁹ Ibid
- ¹⁰ Lisa Steyn. (2016). 'Title Deeds Backlog Trips up RDP Housing'. Available at: <http://mg.co.za/article/2016-04-14-title-deeds-backlog-trips-up-rdp-housing>
- ¹¹ Lynette Johns. (2016). 'City Must Hand Homes over at No Cost'. Available at: <http://www.iol.co.za/capetimes/city-must-hand-homes-over-at-no-cost-2085090>
- ¹² Ibid
- ¹³ Ibid
- ¹⁴ Ibid
- ¹⁵ Ibid
- ¹⁶ Astrid Februarie. (2016). 'Happiness is having your own home'. Available at: www.netwerk24.com/ZA/Tygerburger/Nuus/happiness-is-having-your-own-home-20161115-2
- ¹⁷ Ibid
- ¹⁸ Mick Byrne. (2016). 'We are selling off social housing and it's madness' Available at: <http://www.dublinquirer.com/2016/04/27/mick-we-are-selling-off-social-housing-and-it-is-madness/>
- ¹⁹ Ibid
- ²⁰ Ibid
- ²¹ It is true that conditions can be attached to the transfer of social housing stipulating, for example, that the properties concerned may not be sold within a given period, say five or ten years. However, experience with RDP houses suggests that such conditions are routinely ignored. In any event, the recipient of such a transfer could sub-let the property to a private tenant and thereby enjoy a handsome income in effect at public expense.

This Briefing Paper, or parts thereof, may be reproduced with acknowledgement.
For further information, please contact the CPLO Office Administrator.