

Challenges of Private Capital Investments in the Former Transkei Area in South Africa: Effects of Property Laws on Real Estate Development

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Key words: Access to land; Land management; Real estate development; Private Capital Investments; Former Transkei; South Africa

SUMMARY

The study investigated reasons for the dearth of private real estate investments in the former Transkei, in South Africa with a focus on the historical and current land tenure laws in order to develop guidelines for improved investment performance. The objectives were to: i) identify the types of land tenure systems prevalent in the former Transkei in ii) determine how colonial laws, African customary laws and the post democratic laws influence the perception of tenure security for private investment in the former Transkei; iii) establish the processes involved in the acquisition of land tenure rights within the customary areas and the respective legal and social recourse thereof and iv) Identify factors which influence the decisions for private investment in former homelands. An empirical study was undertaken utilising a mixed methodology within a pragmatic paradigm. The triangulation methodology employed quantitative and qualitative methodologies concurrently. Key findings revealed that; permission type tenure, leaseholds and freehold tenure were prevalent in the study area. Permission type tenures were identified as insecure for private investment because they involve cumbersome processes and do not provide full ownership rights. New tenure laws have strengthened possessory tenure rights to customary and informal tenure without giving real rights to the citizens. The laws have also created a shared responsibility between the community and the traditional leaders in the management of customary land. Additionally, tenure security, access to bulk infrastructure, economic activity, the quality of municipal and government services were ranked as important factors influencing private investment.

The study concludes that improved awareness the legal remedies for customary tenure insecurities as afforded by new tenure laws would be beneficial to all stakeholders. Further, innovative ways of providing bulk infrastructure together with reliable municipal services are key to achieving development goals while protecting our world, our land in a sustainable manner. This could lead to improved private investment within the former homelands.

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The former homelands are characterised by under-investment and development, partly due to a lack of a clear and transparent land management systems. The majority of the inhabitants hold informal and customary title to their land which does not offer the same level of rights as the cadastral based title which has the highest level of tenure security. Therefore, it is imperative that economic development be extended to this significant part of the population by addressing structural limitations to development in line with sustainable development goals. The paper provides valuable insights for private investors in areas that rely on the African customary as well as other informal tenure systems.

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