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Reviving SA's dead capital – the urgent need for title reform

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The extent of formal properties in South Africa's urban areas that lack accurate title deeds represents a silent crisis. But it is also a significant untapped opportunity that could unlock vast economic potential and support wealth-creation in some of the country's poorest neighbourhoods.

Much attention is given to the lack of formally recognised land rights in informal settlements and rural areas. But an estimated 1.6 million households who live in formal, demarcated and serviced urban areas in South Africa do not have accurate title deeds to their properties.

This surpasses the total number of households in informal settlements, underscoring both the urgency of addressing this issue and the considerable financial benefits that an effective titling initiative could deliver.

Housing is the single most substantial asset on the balance sheets of low-income households. Assuming an average value of R200 000, these untitled properties are worth R320bn - over 4% of the nation's GDP.

Why title deeds matter

A title deed is more than a piece of paper; it is a gateway to economic inclusion and security. Without formal title deeds, property transactions are mediated by informal mechanisms, restricting market access to insiders and suppressing property price growth. Owners cannot leverage their properties for loans, and disputes are common. Often these are resolved through extrajudicial means.

Without accurate title deeds municipalities struggle to confirm ownership or bill for services. Likewise, the financial sector cannot operate in areas with compromised title systems.

Uncertainty surrounding ownership, and the lack of enforceability of claims, also deters lending, leaving the financial sector exposed to accusations of red lining and discrimination by politicians.

As in other sectors, informality in housing markets perpetuates lawlessness and creates barriers to economic growth and stability.

Barriers to formal ownership

Several factors contribute to the titling crisis in South Africa. The main problem is that the formal mechanisms that govern property transfers are both costly and complex, rendering them inaccessible to many low-income households.

Even when a property's title is initially secure, it may become compromised over time if owners and purchasers lack the financial means to maintain legally recognised title. In addition, the ill-considered eight-year restriction placed on the selling of state-subsidised properties predisposes sellers to engage in informal transactions.

Take the example of John who bought an RDP house in Delft informally in 2010 for R50 000, using funds from the sale of his original home (also an RDP property). There was no title deed for his new house, so he paid the seller in cash and moved in. Over time, he invested significantly in the new property.

In 2019, the previous owner told John that title deeds were being issued, and if he wanted the title deed, he would need to pay her another R150 000. The provincial housing authorities were approached but insisted that since John did not qualify for a housing subsidy (as he had already owned a house), he would need to pay them another R94 000 to get the title deed. Despite appeals to the premier this matter remains unresolved.

There is a backlog of over one million subsidised properties which have been handed over to beneficiary households but where title deeds have never been issued. Rectifying this, often many years after the properties were occupied by original beneficiaries, can be complex, costly and time consuming.

While municipalities delay issuing title deeds in these cases, life goes on for those in occupation of the property. Some marry, divorce, die and even (despite laws that seek to prevent this) sell their properties. But when the time finally comes to transfer the property from the government to the owner, it is often not easy to establish who the owner is.

Turning challenges into opportunities

While the absence of title deeds is a huge problem, it simultaneously presents an enormous opportunity for targeted economic upliftment in the poorest urban areas of South Africa. The challenge is vast and complex, but we have a good sense of how to proceed.

Various interventions exist and offer valuable lessons. For instance, the Tenure Support Centre, (TSC) currently operating from FNB's Khayelitsha branch, offers low-cost

professional conveyancing services and assists owners, like John, with compromised titles to formalise their ownership. This service should be replicated in bank branches countrywide.

Beyond enabling confidentiality and security, providing housing-related assistance in bank branches reinforces the association between property ownership and wealth accumulation, shifting it away from service delivery and political patronage.

Likewise, the Free Market Foundation's Khaya Lam project has been working successfully with municipalities to clear the title-deed backlog.

Policy reform is also critical. Restrictive policies that inadvertently promote informality must be scrapped. Top of that list is the law that prevents subsidy beneficiaries from selling their properties for eight years.

The sector is also ripe for disruptive digital innovation. Conveyancing is particularly well suited to the application of agentic AI solutions that can automate processes and strip out costs without the need for direct human intervention.

In addition, a fully digital system could be developed for properties awaiting formal title, offering legal recognition and protection, while various barriers to transfer are resolved. It could lead the way in the development of a fully digital property registration system for the market as a whole.

South Africa has an opportunity to transform the lives of millions of its citizens by addressing the challenges surrounding title deeds in urban areas. By so doing, we could unlock vast economic potential and strengthen the foundations of our cities.

The path forward requires determination, collaboration, and a willingness to embrace innovative solutions. The benefits of such efforts will be felt not just by individual homeowners but by the nation as a whole.

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