



Regularizing land tenure within upgrading programmes in Argentina; the cases of Promeba and Rosario Hábitat

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1. United Nations Food and Agriculture Organization (FAO) (2003), *Tenencia de la Tierra y Desarrollo Rural*, FAO, Departamento Económico Social, www.fao.org/DOCREP/005/Y4307S/Y4307s05.htm.

ABSTRACT This paper describes two large-scale upgrading programmes in Argentina that sought to transfer land tenure to the inhabitants of informal settlements as part of a larger process that provided good quality infrastructure and services and other measures to strengthen their social inclusion in the wider city. In doing this, they went beyond the proposition that providing the urban poor with legal land titles in itself reduces poverty. The paper discusses the constraints on such programmes, including the long, complex process of getting land titles. Both upgrading programmes faced challenges from slow bureaucratic procedures and inadequate and fragmentary regulatory frameworks, with urban standards that were inappropriate to the social reality of low-income households. The paper notes that upgrading programmes will always lag behind need unless they are supported by more appropriate legal and regulatory frameworks.

KEYWORDS inappropriate standards / land tenure / legal regularization / regulatory frameworks / titles / urban upgrading

I. INTRODUCTION

Over the last 30 to 40 years, informal or precarious settlements have developed rapidly on the outskirts of large Argentine cities. In these settlements, a variety of tenure situations exist for different households, conferring different degrees of security to their residents.

Land tenure is a concept that has a wider scope than that of ownership. It is connected to “...*the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to... who can use what resources for how long and under what conditions.*”⁽¹⁾ Tenure is a multi-dimensional institution, a set of rules created by societies, guaranteeing rights and regulating land use and/or ownership behaviours, which brings into play legal, social, technical, economic, institutional and political aspects.

Informal settlements and insecure land tenure are the result of an exclusionary planning and urban management system, which fails to provide legal and practical conditions for lower-income groups to access land and housing. In the context of urban development, land tenure goes beyond issues of private rights, and into the public sphere, involving human rights and rights to the city. Secure land tenure is part of any comprehensive (in Spanish, *integral*) approach to addressing housing needs and environmental issues.

Studies on social and economic conditions for households living with insecure tenure show that urban poverty, land tenure and living conditions are strongly correlated. Tenure insecurity hinders any attempt to upgrade housing conditions for the urban poor, undermines long-term planning, and distorts land and services prices. It has a direct impact on access to basic urban services and on the absence of investments at settlement level (for instance, for basic infrastructure), thus fuelling social exclusion and poverty.⁽²⁾ For example, residents who believe they will soon be evicted have little incentive to improve their homes or neighbourhood infrastructure – for instance, water networks or sanitation facilities – recognizing that they will receive no compensation for these improvements. Also, in most government programmes or actions to improve conditions in informal settlements (including some of those discussed later in this paper), a settlement's eligibility is influenced by the ease with which it can be regularized (for instance, avoiding conflict with private landowners).

In the 1990s, there began a focus on land tenure as a single means of addressing urban poverty, and on private property titling as the only way for the urban poor to achieve tenure security. Market economists have tended to concentrate on private property rights, considering that these rights should not only provide owners with secure land tenure but also guarantee them the advantages from selling or renting the property to others, and the potential to finance improvements by using the property as mortgage collateral to obtain credit. Under this approach, de Soto suggests that if the informal occupation rights of settlement residents became full private property rights, this would lead to the elimination of urban poverty, if not immediately then over time, as residents started to reap the benefits of the formal market economy.⁽³⁾

Other theoretical perspectives have underlined the difficulties of considering private property titles as assets that can contribute to the reduction of inequalities and urban poverty. These approaches consider land tenure in its multidimensional aspects and as a component of social, political and economic structures.

A study from Bogotá on informal land markets⁽⁴⁾ shows that, contrary to expectations, community externalities are a decisive factor for most people in choosing a place of residence; price is not the only factor taken into account. In the choice of home location, influencing factors include socioeconomic networks, proximity to relatives and friends, whether and to what extent the family has settled in the place, and accessibility to the neighbourhood. Another interesting point raised by this study is that the existence of public services and other urban services, and the investments made in the house over time, are considered to enhance property value. However, this is not the case with effective regularization (within the sample of owner responders) or probable regularization (within the sample of non-owner responders). Thus, for the inhabitants, property value is not, on the whole, related to obtaining title through the legalization of the settlement.

A case study carried out in the informal settlements of Lima (Peru), which had been the focus of a massive government titling programme, showed how, 10 years after obtaining title, legalization of ownership had not resolved problems; as Gustavo Riofrío notes: "*It is one thing to provide urban land, but quite another one to provide only title.*"⁽⁵⁾ Precarious housing conditions and inadequacies in infrastructure and services persist. Riofrío

2. Durand-Lasserve, Alain and Lauren Royston (compilers) (2002), *Holding their Ground. Secure; Land Tenure for the Urban Poor in Developing Countries*, Earthscan, London, 264 pages.

3. De Soto, Hernando (2000), *El Misterio del Capital*, El Comercio, Lima, 288 pages.

4. Abramo, Pedro and Adriana Parias Duran (2009), "Mercados de suelo en los barrios populares de Bogotá", in Programa de Tecnología de Habitación – HABITARE, "Favela e Mercado informal: a nova porta de entrada dos pobres nas cidades brasileiras", Coleção 10, Associação Nacional del Ambiente Construído – ANTAC, Porto Alegre, pages 304–330.

5. Riofrío, Gustavo (2006), Paper presented at the Latin American Seminar "Teoría y Política sobre Asentamientos Informales", Buenos Aires, 8–9 November 2006.

emphasizes that, in the final instance, providing title formalizes people but does not formalize the system that produces the habitat, which would otherwise be formalized by respecting people's customs and responding to their needs. Riofrío incorporates into the analysis two important aspects of tenure security not always taken into account, namely time and custom. It is not the same thing to provide title in a growing city as in a consolidated city, since providing title to newly established settlements encourages sale or speculation, not settling down.⁽⁶⁾

The crucial social dimension of tenure security that Abramo⁽⁷⁾ noted is influenced by the age of the settlement and the settler, the social networks created and the tacit rules accepted by the holders of tenure rights. These constitute rights since people trust they will be recognized by public authorities and communities and will have a direct impact on how the land is used by the holders. For Riofrío, security of land tenure relates not only to obtaining the title but also to access to employment, health care and other services, social and family networks and the improvement of local environmental conditions.

According to another view, land tenure security, understood as the absence of eviction risks, is more important than private property per se for improving the quality of life for the households residing in precarious settlements.⁽⁸⁾ Thus, the "secure tenure" concept became key to the claims raised by non-governmental organizations such as Habitat International Coalition, which advocate the right to housing all over the world. It is also part of the targets promoted by the United Nations Human Settlements Programme (UN-Habitat), which, in late 1999, launched the World Campaign for Secure Housing Tenure. Security of tenure is understood as a platform for development, with long-term implications for security, allowing planning and producing different economic and social effects, including improving the quality of life.

The approaches described above consider the land tenure issue from different perspectives, and forming different instruments of change. In each case, the poverty of the households is associated with illegal tenure. However, land tenure regularization is not considered as the only or exclusive target in the achievement of equal rights.

II. THE MAGNITUDE OF INFORMAL SETTLEMENTS IN ARGENTINA'S URBAN AREAS

In Argentina, as in other parts of Latin America, the rapid growth of informal settlements was part of the urbanization process from the second half of the twentieth century. The growth in city populations was accompanied by increases in land prices, rental prices and poverty, a lack of housing, inadequate or no urban planning and the absence of political and social responses from the state.⁽⁹⁾

In Argentine cities, much of the growth in population was housed in what might be termed spontaneous urbanization – informal land subdivisions with low-priced plots and minimal provision of infrastructure and services. The plots were intended for low-income groups and were paid for in monthly instalments and promoted by private agents. This model has been a core element in the social and spatial organization of cities, becoming the main means by which the physical expansion of cities occurred, producing very low densities that often did not exceed 20–30

6. Riofrío, Gustavo and Daniel Ramírez Corso (2005), *Formalización de la Propiedad y Mejoramiento de Barrios: Bien Legal, Bien Marginal*, Estudios Urbanos, DESCO, LIMA.

7. See reference 4.

8. See reference 2.

9. Candia Baeza, David (2005), "Metas del milenio y tugurios: una metodología utilizando datos censales", Serie Población y Desarrollo 63, CEPAL, CELADE, División Población, Santiago de Chile.

inhabitants per hectare, a settlement pattern to which it was expensive to provide infrastructure and services.⁽¹⁰⁾

Spontaneous urbanization comprises two types of land occupation: the *villas miserias* and *settlements* on informal sub-divisions. These originated in two different historic periods. The *villas* appeared mainly in the metropolitan area of Buenos Aires and in large cities such as Córdoba, Rosario, Santa Fe and Mendoza during the industrialization process of the 1940s. Their presence increased in the following decades, as most migrants to the city went to the *villas*.⁽¹¹⁾

The *settlements* on informal sub-divisions appeared during the last military government (1976–1983) as a result of the destruction of the productive structure and the eradication of slums, especially in the city of Buenos Aires. These *settlements* were located mostly on the periphery of metropolitan areas and they continued to grow after the return of democracy in 1983, as economic and social conditions for the lower-income sectors did not improve much.⁽¹²⁾ This phenomenon is now common to all metropolitan cities in Argentina.

Both types of land occupation are territorial expressions of urban poverty, but have spatial and legal differences (Table 1). The *villas* are informal occupations of vacant land that produce irregular urban layouts. They are generally in good locations with regard to centres of production and consumption, in areas where urban land is scarce. They lack plans, tending to be organized spontaneously, with little provision for roads (and usually with only small passageways that are mostly for pedestrians). They are the consequence of the sum of individual occupations over time and they have high population densities. Houses are built first with waste materials, and later are gradually improved.⁽¹³⁾

The informal *settlements*, by contrast, have regular, planned urban layouts, similar to the gridiron division into blocks that characterizes the plots marketed on the formal land market. They are generally the product of a collective decision and their organization follows a previous strategy (obtaining cadastre land information at land parcel level; organizing a group that will start the occupation; seeking the support of related organizations). They are located mostly on private land, often on plots that offer their owners no economic return or possibility of development – for instance, garbage dumps, waste land or land at risk of floods – or they are built on land subject to statutory restrictions.⁽¹⁴⁾

10. Reese, Eduardo (2006), "La situación actual de la gestión urbana y la agenda de las ciudades en la Argentina", in F Almansi (compiler), "Gestión urbana, enfoques e instrumentos", *Medio Ambiente y Urbanización* No 65, IIED-AL, Buenos Aires, pages 3–22.

11. Yujnovsky, Oscar (1984), *Claves Políticas del Problema Habitacional Argentino*, Grupo Editor Latinoamericano, Buenos Aires, 411 pages.

12. Info-hábitat (2001), "Mapa Integral del hábitat: las condiciones sociales y urbanas de los asentamientos y villas del AMBA", mimeo, Universidad Nacional de General Sarmiento, Buenos Aires.

13. See reference 12.

14. See reference 12.

TABLE 1

Differences between *villas* and precarious or informal *settlements*

| <i>Villas</i> (slums) | Precarious or informal <i>settlements</i> |
|---|--|
| Irregular occupation, generally on publicly owned land | Irregular occupation, generally on private land |
| Occupation of vacant urban land in good locations with regard to centres of production and commerce | Poor quality land (often subject to flooding) with statutory restrictions (e.g. garbage dumps, waste land or flood plains) |
| No prior urban planning; spontaneous occupation with intricate pedestrian passageways | Urban plans applied (including cadastre data verification, design of streets and public spaces) |
| The sum of individual occupations | Collective organization |
| High population density | Low population density |

REGULARIZING LAND TENURE IN UPGRADING PROGRAMMES

Most precarious or informal settlements occupy land illegally, often land that is abandoned or disputed. However, some informal settlements are built on illegal sub-divisions (often termed popular plots), where the land was purchased from the landowner.



PHOTO 1
Settlement El Milenio in the municipality of Moreno, in the west of Greater Buenos Aires © Photo Madre Tierra, 2002



PHOTO 2
Settlement Hardoy in the municipality of San Fernando, in the west of Greater Buenos Aires, before improvements brought about by the Promeba programme © Photo IIED-AL, 2001

15. UN-Habitat (2003), "Slums of the world: the face of urban poverty in the new millennium?", Working Paper, Global Urban Observatory, UN-Habitat, Nairobi, page 30.

16. Housing Diagnostic (2001), from the National Agency of Housing Policies, Under-Secretariat of Urban Development and Housing, Public Works Secretariat, Ministry of Infrastructure and Housing.

17. The Buenos Aires Metropolitan Area is made up of the City of Buenos Aires and 24 municipalities of Greater Buenos Aires; its total population is around 11.3 million inhabitants.

According to the United Nations, in 2001, 32 per cent of Latin America's urban population resided in informal settlements.⁽¹⁵⁾ In Argentina, tenure data are neither clear nor consistent. The 2001 census suggested that 16.7 per cent of Argentine households were in irregular tenure situations (understood as households occupying land de facto, or else owning only the house).⁽¹⁶⁾ In the Buenos Aires Metropolitan Area (AMBA),⁽¹⁷⁾



PHOTO 3

Villa la Cava in the municipality of San Isidro, in the north of Greater Buenos Aires © www.clarin.com, 2004



PHOTO 4

Villa 31 Retiro in the city of Buenos Aires © Photo Mark Edwards, IIED, 2006 © Photo IIED-AL, 2001

REGULARIZING LAND TENURE IN UPGRADING PROGRAMMES

18. Greater Buenos Aires is composed of 24 municipalities, excluding the City of Buenos Aires.

19. See press report at <http://www.fam-online.com.ar/Ultimas-Noticias/Regularizacion-dominial-acuerdo-entre-el-Consejo-Profesional-de-Agrimensura-y-la-Provincia.html>.

13 per cent of households had irregular tenure; in the city of Buenos Aires (known as the Federal District, with around 3 million inhabitants), only 8 per cent of households had irregular tenure, compared to 15.7 per cent in Greater Buenos Aires.⁽¹⁸⁾ However, this is probably an underestimate; in 2007, the Under-Secretariat for Land and Urbanism of the province of Buenos Aires asserted that in Greater Buenos Aires there were “...5 million persons in over 1,500 settlements living in irregular land tenure situations.”⁽¹⁹⁾ This would amount to approximately 30 per cent of the population in the 24 municipalities forming Greater Buenos Aires.

Other important metropolitan areas in the country, such as Greater Rosario or Córdoba, have similar proportions of households in irregular occupancy to those in the Buenos Aires Metropolitan Area, or slightly lower. Rosario has 15 per cent irregular occupancy but, unlike Buenos Aires, a higher proportion of these households are in the city of Rosario rather than in Greater Rosario; an extremely high percentage of Rosario’s 91 *villas* are concentrated inside the urban gridiron.

2001 census data show the relationship between land tenure conditions, housing quality (adequate or in need of improving or replacing) and the quality of the neighbourhood (whether they had deficiencies in infrastructure – for instance, whether roads were paved). The data show that 92 per cent of houses in neighbourhoods with no urban deficiencies are considered adequate; 12 per cent of houses in slums and informal settlements are considered adequate; and 52 per cent of houses in neighbourhoods with urban deficiencies are considered adequate (Table 2).

Table 3 highlights the relationship between housing quality and household poverty. Those within the lowest income quintile need half their housing replaced and close to half improved.

III. THE LAND REGULATION FRAMEWORK IN ARGENTINA

Argentina is a federal country with three levels of government: national, provincial and municipal/local. At national level, Argentina has always

TABLE 2
The quality of housing in different kinds of settlement in Argentina

| House location | Houses in need of replacement | | Houses to be improved | | Adequate houses | | Total | |
|---|-------------------------------|------|-----------------------|------|------------------|------|------------------|-----|
| | Number | % | Number | % | Number | % | Number | % |
| Slums and settlements | 108,085 | 49.5 | 84,105 | 38.5 | 26,217 | 12 | 218,407 | 100 |
| Neighbourhoods with urban deficiencies* | 186,624 | 9 | 825,986 | 38.5 | 1,133,900 | 52.5 | 2,146,509 | 100 |
| Neighbourhoods with no urban deficiencies** | 79,287 | 1.4 | 345,206 | 6 | 5,394,217 | 92.6 | 5,819,085 | 100 |
| Total | 373,996 | | 1,255,297 | | 6,554,334 | | 8,184,001 | |

* This category includes neighbourhoods with unpaved streets and precarious houses.

** This category includes neighbourhoods with social interest housing and other neighbourhoods that are not *villas*, settlements or neighbourhoods with unpaved streets and precarious buildings.

SOURCE: SIEMPRO-INDEC (2001), *Social Development Survey 2001*, SIEMPRO, Buenos Aires.

TABLE 3
The quality of housing by income level for Argentina

| | Quintile 1 | | Quintile 2 | | Quintile 3 | | Quintile 4 | | Quintile 5 | | Unspecified | | Total | |
|-------------------------------|------------|------|------------|------|------------|------|------------|------|------------|------|-------------|-----|-----------|---|
| | Number | % | Number | % | Number | % |
| Houses in need of replacement | 190,364 | 50.9 | 69,937 | 18.7 | 58,717 | 15.7 | 36,278 | 9.7 | 15,708 | 4.2 | 2,992 | 0.8 | 373,996 | |
| Houses to be improved | 616,351 | 49.1 | 330,143 | 26.3 | 166,955 | 13.3 | 90,381 | 7.2 | 42,680 | 3.4 | 8,787 | 0.7 | 1,255,297 | |
| Adequate houses | 1,009,367 | 15.4 | 1,186,334 | 18.1 | 1,350,193 | 20.6 | 1,448,508 | 22.1 | 1,514,051 | 23.1 | 45,880 | 0.7 | 6,554,333 | |

SOURCE: SIEMPRO-INDEC (2001), *Social Development Survey 2001*, SIEMPRO, Buenos Aires.

lacked a land policy or a land use planning policy and this remains the case today. Land was always considered a basic resource for wealth creation rather than the social product of society as a whole. This notion of land characterizes the fragmentary and elitist regulations in force, and it is one of the factors that has prevented the development of a national land regulation framework that addresses the needs of the whole population.

However, at national and also at provincial level, there are regulations protecting and/or enhancing the value of territorial areas considered to have exceptional characteristics, such as national parks, natural preserves, national monuments, provincial parks or preserves and other areas associated with historical heritage protection and tourist marketing.⁽²⁰⁾

At the **national** level, only one law partially addresses the social issue of land access formalization (Law N° 24.374). This law, enacted in 1994, addresses the legal regularization of those who purchased private land in informal sub-divisions. It allowed the provision of legal land title to residents who could prove that the land had been purchased, and with peaceful and continuous possession for three years prior to 1992 (the year the law was first presented to Congress), provided that such land was the sole and permanent residence of the holder. The law aims to provide the legal regularization of popular plots, i.e. for households that purchased land by monthly instalments on the outskirts of cities but did not achieve final titling. The law is meant to address two constraints: the lower-income sector's financial weakness and their lack of knowledge necessary to meet the requirements to move from informal possession to formal ownership. This law is important, since it allows the regularization of tenure for the inhabitants of many disadvantaged settlements, who had resided on private land for years but who, due to the seller's death, unclear property separation, claims against sellers or the disappearance of the real estate agency, had been unable to complete the titling procedures. But this does nothing for those who occupy land illegally.

At the **provincial and local** levels, although there is some regulation, provisions governing land use planning and regulation are scarce. Only three Argentinean provinces (Buenos Aires, Jujuy and Mendoza) have adopted land use planning regulations, and the city of Buenos Aires also has such legislation. But regardless of number, all provincial laws are fragmentary, scattered and obsolete with regard to land regulation and sub-division.⁽²¹⁾ For example, in the province of Buenos Aires, the Land Use Planning Law approved in 1977 establishes the conditions for use, occupation, sub-division and provision of infrastructure and services applicable to land, and sets standards aimed at regulating municipal government actions in this regard. The law was designed to limit and condition the development of the popular plot sub-market, which had grown strongly by 1977; it was not meant to respond to the urbanization needs generated in the urban areas of the province, either then or now. Much less does this law respond to the conditions of social habitat production or land occupation in large urban agglomerations.⁽²²⁾

In Buenos Aires, in response to the very rapid expansion of the city's urban area and the proliferation of popular plots, various laws and decrees were enacted from 1949 to 1957 to regulate popular plots in low density areas, fixing minimum dimensions for the plots, establishing the mandatory registration of preliminary sales contracts, etc. In 1957, as a consequence of severe flooding in the area, the state enacted provincial Laws N° 6.253 and N° 6.254, establishing that land above sea level could be

20. See reference 10.

21. See reference 10.

22. See Almansi, F, E Gutierrez, A Hardoy, G Pandiella, R Schusterman and G Urquiza (2005), "El problema de la titularidad de la tierra en la expansión de los servicios de agua potable y saneamiento en barrios informales de Buenos Aires", in F Almansi and G Urquiza (editors), *La Lucha por el Agua*, IIED-AL and PNUD, pages 5-60.

sub-divided into plots and restricting the sub-division close to water courses or lakes. Despite these regulations (still in force), new popular plots were produced without any state controls⁽²³⁾ but supply was becoming scarce. In 1977, Executive Decree N° 8.912 (Land Use Planning Law) created strict regulations for the production of urban plots, defining minimum plot dimensions (300 square metres), the layout of the necessary infrastructure (water, sewers, paved roads, public lighting, storm drains) and assigning land to the state at no charge for roads and paths, green spaces, free spaces and spaces reserved for facilities. One of the severest restrictions imposed by the law was that houses had to be built above a certain established flood elevation, in order to obtain approval (previously established by Law N° 6.254). These regulations increased the cost of urban land, which was directly transferred to popular plot costs, with the consequent exclusion of large sections of the lower-income population from access to popular plots.

This provision is still in force and it hinders the regularization of large numbers of informal settlements that, unable to comply with such standards, are excluded from the titling process. At present, most cases of informal settlement regularization are resolved outside the rules; titling approvals are exceptions to the provisions contained in Law 8.912, but this means that they are dependent on the discretion of civil servants.

Regarding **local level** regulations, there is a wide range of heterogeneous situations and approaches, but in every case, these come up against the limitations imposed by provincial laws on land use planning. Local level instruments can be classified into four major groups:

- strategic development plans or local development plans (integration of social, economic, spatial, environmental approaches to the land issue);
- urban plans, urban–environmental plans or land development plans (focusing on physical and spatial/environmental aspects and on management);
- statutory instruments (focusing on regulating land use, occupation, sub-division and facilities and/or different aspects of the environmental issue); and

23. Carballo, Franco (2001) (unpublished), "La regularización dominial en la Prov. de Bs. As. Programas de titularización de inmuebles privados destinados a vivienda social", mimeo.

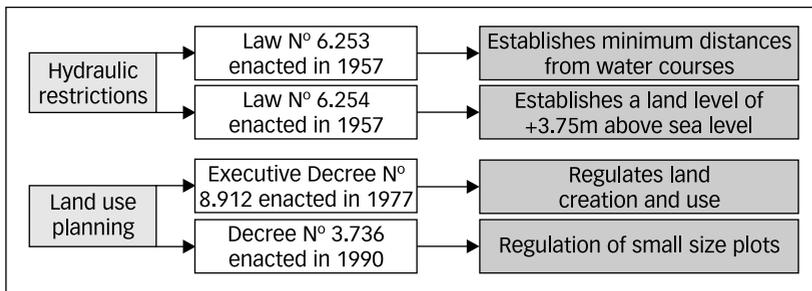


FIGURE 1
Current legislation in the province of Buenos Aires

SOURCE: Florencia Almansi, based on data from different bodies of law, 2005. For further information, see Almansi, F, E Gutierrez, A Hardoy, G Pandiella, R Schusterman and G Urquiza (2005), "El problema de la titularidad de la tierra en la expansión de los servicios de agua potable y saneamiento en *barrios* informales de Buenos Aires", in F Almansi and G Urquiza (editors), *La Lucha por el Agua*, IIED-AL and PNUD, pages 5–60.

24. See reference 10.

- major urban projects, i.e. carried out by municipalities through a large range of financing options, and involving the upgrading of plots or deteriorated infrastructure, the renovation of degraded neighbourhoods and/or downtown or commercial areas, and the relocation or construction of new social/institutional facilities.

For supra-local level environments, such as river basins and metropolises, there is a significant deficit in legislation in Argentina.⁽²⁴⁾

IV. ACTIONS DESIGNED TO ADDRESS THE LAND REGULATION DEFICIT

Faced with these deficiencies, a group of civil society organizations, academic centres, universities and government officials embarked on a joint activity aimed at modifying urban land distribution and the conditions for its appropriation. Their association, named the Movimiento por la Reforma Urbana Argentina (MRU) (Movement for Urban Reform), is engaged in promoting awareness of the risks of inadequate land regulation in Argentine cities.⁽²⁵⁾ The diagnosis arrived at by this association with regard to urban problems can be summarized as follows:⁽²⁶⁾

- **Fragmented cities with strong social and spatial contrasts**, with the poor and the wealthy disputing the same territory on the outskirts of cities. The elites are self-segregated in gated communities with private security and surveillance, while the poor are isolated in degraded areas cut off from the formal city.
- **Increased land prices** associated with the growth of the economy. Land is the only market commodity that has recovered and exceeded the prices in dollars prior to the 2002 devaluation.⁽²⁷⁾
- **Cities with no infrastructure and high maintenance costs.** The cost of land with infrastructure is high, and the scarcity of land makes it even more expensive. There is a strong concentration of facilities and services in privileged areas. Patterns of exclusion derived from the logic of the market lead to difficulties in city management.
- **A persistent informality** that characterizes land markets. The exclusion from the formal market of large sectors of the population encourages the creation of urban informality, which in turn leads to increased poverty conditions.

The proposals developed by the movement were submitted to national legislators for consideration in 2006, during the launching of a round table on the issue held by different sectors of society and the National Congress. Some of these proposals are reflected in the following outcomes:⁽²⁸⁾

- **Declaration of the right to the city** without exclusions, as the outcome of collective work developed within a society. Construction of an urban policy based on a fundamental principle of equitable sharing of the costs and benefits produced as a result of collective work during the urban development process.
- **Democratization of access to land.** Urban policies should guarantee the right of all citizens to enjoy the city, that is, not only the right to adequate housing but also to infrastructure, facilities, green spaces and access to work, education, culture and recreation.

25. The MRU has gained strength, especially in the last few years, drawing on experiences related to the modification of land use planning laws in Colombia and Brazil. It has a membership of more than 200 institutions, ranging from the academic sector to direct action groups working in the field of social habitat. They include international networks, national networks, zonal organization networks (for instance Foro Córdoba and Moi Ciudad de Buenos Aires), national NGOs, universities, religious organizations and state entities.

26. Paper presented by the urbanist Eduardo Reese, member of the MRU, on 19 October 2007, at the meeting with legislators on "Social Habitat for an Urban World", which advocated a legislative agenda including land, housing and city for all.

27. From April 1991 to January 2002, a one-to-one parity was established between the US dollar and the Argentine peso. This was then abolished and the peso devalued against the dollar; the current exchange rate is 3.75 pesos to the US dollar.

28. Also presented by Eduardo Reese on 19 October 2007. See reference 26.

- **Recognition of the social function of property.** The development and implementation of urban policies should take full account of social and cultural interests over and above the individual right to property. Property owners no longer have absolute rights as the social function of property is recognized as inherent. In this sense, the use of the cities' and citizens' public and private spaces and goods should give priority to social, cultural and environmental interests.
- **Fulfilling the social function of property** when, based on the demands posed by urban development policies, it helps respond to citizens' needs with regard to quality of life and the development of economic activities.
- **Mobilization of vacant properties.** The creation of mechanisms aimed at mobilizing land and abandoned urban properties is important in curbing speculative processes and lowering land prices. Creating and promoting the application of special and progressive taxes on idle properties can reduce expectations of speculative profits while contributing to financing public land access programmes.
- **Facilitation of urban land regularization processes.**
- **Democratic management of cities.** Urban policies should encourage the management of the urbanization process based on cooperation between the state and local civil society organizations, taking into account the population's social interests as a priority. This also includes a need to strengthen local management.

There are many actions that can help to achieve the creation of a national land regulation framework. Starting from the idea that the effects on the city are the result of defined political options, one of the movement's main actions is to work together with national legislators within the framework of a debate on urban development and management based on the social function of property. The only Bill submitted to the National Congress based on this approach is the law on urban and land use planning,⁽²⁹⁾ which has not been discussed by Parliament yet. Also, it is clear that the mere fact of having a law does not guarantee any transformation; the law has to be complemented by establishing use procedures, disseminating its scope, generating new instruments and so on, a process that cannot be developed in the short term.

29. The Bill was submitted to Congress on 27 November 2007 by national congressman Silvia Augsburguer from the Socialist block.

V. LAND TENURE REGULARIZATION PROGRAMMES

a. Introduction

An important part of the movement's proposals is land programmes that address social issues, especially contributing to poverty reduction. Historically, land tenure regularization actions or programmes in Argentina have been only remedial and small scale, geared to formal titling processes for only a small percentage of informal settlements or plots. In addition, these processes were often inhibited by the need to observe the existing land use planning laws described above. These few land planning laws established technical requirements that are incompatible with the social and economic realities surrounding land and housing production. They are also often subject to bureaucratic constraints imposed by administrative procedures. These actions aimed at achieving regularization have been inadequate or have encountered limitations that prevented them

from transforming urban intervention initiatives into tools that could promote the needed social inclusion and spatial integration.

However, the last few years have seen the implementation of two new programmes aimed at two major objectives: the provision of tenure security through formal regularization processes for residents; and the social and urban integration of such areas and communities into the wider context of urban structure and society. Programa de Mejoramiento de Barrios (Promeba) (Settlement Upgrading Programme) is a countrywide programme now implemented in 21 provinces, with the involvement of national, provincial and local authorities; and Rosario Hábitat is a local programme implemented by the government of the city of Rosario. Both benefit from Inter-American Development Bank co-funding schemes. Both focus on urban informal settlements and, in the case of Promeba, on peri-urban settlements. Both programmes face regulatory limitations and inadequacies that hinder their execution and limit the fulfilment of their legal goals. It is interesting to analyze these limitations in the light of the different approaches being debated at present in Argentina.

b. Settlement Upgrading Programme – Promeba⁽³⁰⁾

Promeba⁽³¹⁾ was launched in 1997 and aims to improve the quality of life for residents of the *villas* and informal settlements that lack infrastructure and basic services. Its focus is on upgrading existing settlements, providing access to land ownership, urban infrastructure works, community facilities and environmental improvement, and also promoting the strengthening of human and social capital.

Since the works are heavily subsidized, the programme focuses on sectors where at least 75 per cent of households have unsatisfied basic needs, where income levels are below the poverty line and where the habitat shows serious deficiencies. The items financed include basic infrastructure networks (water, sewers, electricity and gas) and community use facilities (public kitchens, primary health centres, sports facilities). Private works carried out within the plots, such as house upgrading or extension, or the construction of new houses, are financed with funds from other specific federal programmes.⁽³²⁾

Promeba has a national coordination unit and it operates on a decentralized basis through both provincial and municipal implementation units. The national coordination unit manages programme funds, and plans and monitors the portfolio of projects. It also supports and supervises the sub-implementing units along the different stages of the project cycle, evaluates their management capabilities and develops capacity-building actions. The provincial and municipal implementation units identify, prepare and implement the projects. They manage bidding processes and contract and inspect the works, as well as retaining, training and supervising the field team professionals who implement the intervention within settlements. Other actors include different state bodies, settlement organizations, public utilities, construction companies, professional associations and civil society organizations.

The programme seeks to stimulate social organization processes and community development and to induce the population's active participation in the design and selection of works. The approach to management distinguishes this programme from traditional policies. It operates

30. Information specially prepared for this paper by Dr Susana Guerrero, in charge of the land tenure regularization component within Promeba.

31. Promeba, initially organized within the Social Development Ministry, is currently implemented within the sphere of the Under-Secretary for Urban Development and Housing of the Public Works Secretariat, Ministry of Federal Planning, Public Investment and Services. Promeba is funded by a US\$ 170 million loan from the Inter-American Development Bank and a US\$ 60 million contribution from the government of Argentina. In March 2007, a second loan contract was signed to finance new sections of the programme over a 25-year period. After this second stage, the national government will fund all programme actions in full.

32. Federal housing construction programmes or housing upgrading programmes that operate through different management modalities, companies, cooperatives and intermediate entities.

along three basic axes: "integrated" projects (working simultaneously in different sectors, addressing social, legal and political aspects, in coordination); community-based management; and continuing support beyond the execution of the works with a team composed of social, environmental and legal consultants, urban design specialists and work inspectors.

i. The land tenure regularization component within the programme

Land tenure regularization is considered an essential element of each project. Project eligibility depends on certain physical and environmental conditions, but mainly on the type of population and the possibilities of regularization for that area within the project implementation period. Therefore, a study of the titles and the guarantees to achieve regularization is a crucial part of the first stages of designing the intervention, since getting finance for the rest of the project depends on this. Thus, the possibility of achieving land tenure regularization is an essential consideration during the eligibility process.

The necessary operations to transfer property titles to occupant families are planned and initiated in parallel with the design and implementation of the physical works. As the project has to meet tenure regularization conditions, plots in the selected project must be owned by the state (public land) or (for private land) be in the process of expropriation with legal possession granted, and acquired by the occupants or by the social organization created by the beneficiaries. This means that a number of households are excluded from the process.

Although the general regime governing real property transfers is established in the Civil Code of the Nation, every province and municipality has particular regulations that cover the delivery, allocation and sale of state-owned land. Therefore, the stages and procedures of the process are agreed with each landowner, whether it be a municipality, municipal or provincial housing institute, provincial land directorate, a housing cooperative, etc.

The programme provides the necessary funds to carry out popular plot production and obtain title deeds, also the fieldwork performed by professionals. As a preliminary step, during the project preparation stage, the rules, regulations, conditions and requirements in force in each locality regarding land sub-division and transfer are studied and, if necessary, modifications and amendments are proposed to streamline the process and enable it to take place within the established schedule. Land tenure regularization proposals take into account the three aspects of the process:

- title analysis, physical survey and plot sub-division plan;
- adaptation of urban rules and regulations and approval to legalize tenure in favour of the occupants; and
- identification of beneficiaries and proposals on dispute resolution (over boundaries, family conflicts, regularization of personal documentation, etc.)

These issues are developed within the legal component of the project. For the preparation phase to be completed, any administrative or judicial difficulties affecting the land must have been worked out and

33. The work of the legal consultant on the field team includes: managing the activities required to approve or amend legislation; guaranteeing a streamlined procedure and conclusion of the processes, at a price and on payment terms in consonance with the inhabitants' economic capacity; surveys to gather information and detect situations involving family or legal difficulties; legal assistance to families affected by legal conflicts, which hinder the definition of the holders of tenure rights and support for strengthening community organizations; workshops and information sessions on subjects such as the benefits conferred by formal titles, sale conditions (price, instalments, local rules and regulations) and other legal subjects of interest to the population.

34. The Civil Code establishes that: "*No claim may be made against any person who has had possession for a term of 20 uninterrupted years on the grounds of lack of title, nullity thereof or possession in bad faith.*" This means that irregular tenure may turn into possession by means of the decision of the holder to act in a special manner (as if he were the owner) for a given period.

conditions must exist to issue title deeds in favour of the occupants. During the implementation stage, the field team works with the families. Legal consultants⁽³³⁾ interview residents, informing them of the steps and procedures necessary to acquire the land they occupy. Through information sessions, workshops and private consultations, the population is informed about such issues as the legislative requirements, the resolution of particular problems and payment terms.

ii. Reasons for including the land regularization component in Promeba

The term "irregular tenure" is usually used to refer to the occupation of land without any title granting rights to such property (i.e., without any document or contract required by law). Irregular land tenure depends on the existence of a formal legal order with which it fails to comply. Under the Civil Code, vacant land and unclaimed estates become state assets. Therefore, any kind of land tenure without a title might fall under the concept of "irregular tenure".⁽³⁴⁾

It is common for those living in informal settlements to lack any kind of permit or paper relating to the land they occupy, or to have a "paper without legal validity". This is the most extreme situation. However, there are several intermediate situations, recognized by law, that do not reach the status of legal title but that are framed within an intermediate legality that constitutes the possession of the plot or house amidst a costly set of proceedings, which include the preliminary sales contract, the assignment of rights to that contract, the assignment of possession rights and the purchase and sub-division of the land plot. Even though these intermediate actions cannot be considered irregular because they are not outside the law, they do not reach the full legal status that ensures full protection and security of ownership rights. (There tends to be no risk of eviction, however, except possibly in central areas of Buenos Aires where land is very valuable.)

Thus, in Argentina, ownership provides the maximum legal security of land tenure, and is accomplished by executing a title deed that is later registered with the real estate register. This is why Promeba did not seek a less ambitious goal. It refers to physical and legal land regularization, whereby physical regularization means that settlements should be provided with land sub-division plans approved in accordance with the existing urban legislation. Land tenure regularization has been defined as the need for all residents to have, at least, legal possession of their plot, for the subsequent delivery of title to property to each family targeted by the programme.

As already noted, Promeba also seeks to integrate the settlements into the wider city. This is achieved by the physical and legal regularization of these territories to meet the city's basic standards, so this has urban, environmental, legal and service access aspects. Promeba is a social programme; it is subsidized and focuses on lower-income populations. Therefore, its large investments in infrastructure and environmental sanitation should not become a way of inflating the price of the land and house and encouraging their sale by beneficiary families. Instead, it should ensure that the long-term beneficiaries continue to be those at whom this policy is targeted. Hence, the state must act responsibly and

may not make investments in land with conflicting legal situations or where ownership is uncertain.

In the last 10 years, the programme has shown that the upgrading process, along with the formalization of land tenure rights, strengthens the population's feeling of inclusion and encourages private investment, since it has been verified that the great majority of the beneficiaries continue to live in the neighbourhoods and that houses have been significantly improved since programme intervention.

Regarding the physical regularization of land, the goal is that upon programme completion, 100 per cent of the settlements should have an approved land division plan. For tenure security, the immediate goal is that at least 90 per cent of households should attain legal possession upon programme completion. Legal possession is achieved upon the execution of a preliminary sales contract and/or the administrative adjudication act. The ultimate goal is the transfer of legal ownership of the plot of land by means of a title deed executed in the name of the occupant family targeted by the programme. At least 60 per cent of the families should obtain a title deed of the plot on which they live.

iii. Progress in Promeba with regard to land regularization

At present, 21 provincial departments are executing projects within the programme. Table 4 shows the status of projects from 1998 to 2007.

Within the 175 projects either executed or under execution, involving 59,345 families/plots, 5,047 plots (8.5 per cent) have been titled. Likewise, plans for land sub-division have been approved for settlements affected by the programme, and several adjudications have been made that are undergoing the relevant titling process.

The titling process has encountered various problems over the last 10 years. These include legal conflicts for occupant families, criminal conflicts in the case of houses illegally taken by force or by using violence, and other conflicts that hinder the possibility of titling in the short or medium term, until the occupant's situation has been properly defined. Therefore, the titling goal is to formalize the tenure rights of at least 60 per cent of the plots affected by the programme.

There are no projects at the second stage of execution, so the ultimate goal of land tenure regularization, namely the granting of a title deed in the name of the occupant family, has not yet been met. Since the second semester of 2007, when Promeba II was already being implemented, proposals have focused on the regularization of the urban design, site surveys,

TABLE 4
First stage of Promeba 1998–2007

| Progress status for projects | Number of projects | Number of families/ plots | Disbursed contract amount (US\$) |
|------------------------------|--------------------|---------------------------|----------------------------------|
| Executed | 147 | 45,549 | 648,196,041.10 |
| In execution | 28 | 13,796 | 243,141,261.34 |
| Total | 175 | 59,345 | 891,337,302.44 |

SOURCE: Data set by Settlement Upgrading Programme (Promeba).

TABLE 5
Promeba's second stage 2007–2008

| Progress status for projects | Number of projects | Number of families/ plots | Disbursed contract amount (US\$) |
|-------------------------------------|---------------------------|----------------------------------|---|
| In execution | 26 | 6,525 | 117,898,535.23 |
| In bidding process | 27 | 7,949 | 138,183,959.87 |
| Total | 53 | 14,474 | 256,082,495.10 |

SOURCE: Data set by Settlement Upgrading Programme (Promeba).

land regularization case studies and cadastral analysis of real estate, and the proposals for tenure regularization began to be prepared.

iv. Difficulties faced by the Promeba land regularization programme

The major obstacles to the titling process are the following:

Absence of an integrated regulatory framework. As already noted, the regulatory framework governing land use and sub-division in Argentina is fragmented, and each province has its own legislation in place. Thus, Promeba has had to arrange with the various provincial and municipal agencies different strategies and different administrative routes, where a large number of agencies are involved. Most of the agencies with whom Promeba works have not addressed the topic of informal settlements. In many of the municipalities of the interior of Argentina, no consideration has been given to informal settlements and the comprehensive approach needed to upgrade them.

No awareness of existing national laws. In some cases, there are laws in place that allow the streamlining of property transfer proceedings, but they are not used. For example, more use could be made of the 20-year possession law, which authorizes an accredited government agency to transfer such property to third parties, enforcing the transfer by law or executive decree.

Excessive bureaucracy and slow pace of administrative proceedings. As a result of the fragmentation mentioned above, each territorial jurisdiction enacts its own regulatory rules regarding land sub-division and the use and transfer of state-owned property, in some cases with very complex administrative procedures. Furthermore, urbanization processes demand the participation of agencies with competencies in different aspects of these processes, which makes these procedures even more complex. Besides, not all agencies with competence on the subject are aware of the social conditions of the individuals to whom these comprehensive upgrading policies are addressed. For instance, as the settlement becomes regularized, agencies often demand payment of municipal taxes, as established by the regulations in force, which the population targeted by the programme certainly cannot afford. They ignore the fact that if these families could fulfil their tax obligations, they would not be targeted for programme intervention. For a household to be exempt from tax payments, they have to obtain a certificate of indigence issued by a social worker from the municipality's Social Department – but staff at the

department have no support to verify the family's conditions of indigence and Promeba site staff are not authorized to issue the certificate.

In some cases, there have been delays of up to two years in completing the transfer of state-owned property to the provincial government and for the subsequent execution of title deeds to the individual beneficiaries, because various agencies and organizations have to be involved. (ONABE – the national agency responsible for managing the plots; Programa Arraigo – the province/municipality requesting the land; the government's General Notary Office).

Limited management capacity of some local governments.

Some municipal governments have limited management capacity to address the issue. Municipalities typically act in response to specific situations of conflict or in response to emerging demands. Economic restrictions, the prioritization of other issues, unqualified staff and the absence of specific administrative structures are just some of the reasons for the limited government capacity to anticipate and exert influence on the land market. Most municipal officials also find it hard to try out new mechanisms for working with the inhabitants of informal settlements in upgrading. Historically, addressing the needs of people living in informal settlements has been seen as a problem addressed by provincial housing departments through the building of new housing.

Given the absence of rules, other municipalities had to enact ordinances for the acquisition of land through laws that allowed rapid expropriation proceedings. In some cases, special land sub-divisions with specific urban restrictions have taken place to accommodate the existing situation within a possible land sub-division plan. But this was an exception to the regulatory rules in force, as they set standards that could not be met by the urban developments targeted for regularization by the programme.

Fiscal burden faced by families as a result of the land formalization process. A household with an income below the poverty line already faces difficulties affording food, health care and education. So it also faces difficulties meeting any additional costs from being in this programme – for example, provincial land taxes and utility services that, in some cases, are provided by privatized companies. When a household's land tenure is regularized, the land is appraised for tax purposes (to determine what the owner will pay upon formal land registration). This appraisal is based on the plot's location and physical characteristics and takes no account of the occupants' capacity to pay. So even though the programme subsidizes the costs of urban infrastructure, this infrastructure helps increase the price of the land, which increases the land tax – a fiscal pressure that often leads to the expulsion of families. There is a need to consider how to make the new financial demands on occupants (from tax and service charges) affordable – but this would have to be done by the provincial or municipal authorities, as Promeba withdraws. According to surveys carried out by Promeba in the first executed projects (prior to 2001), the population of the settlements surveyed had unsatisfied basic needs, with an average income per family ranging from US\$ 800 to US\$ 1,200 annually. The costs for the provision of utility services per plot invested in by the programme were higher than the families' annual average income. Following an intervention by Promeba, many municipalities amended their ordinance to reduce tax payments for the programme's target population. But many residents were not able to afford

even the subsidized costs, which jeopardized their capacity to continue living in the settlement that Promeba had helped upgrade.

c. Rosario Hábitat programme⁽³⁵⁾

In the city of Rosario, around 13 per cent of the total population of 1.1 million inhabitants live in informal settlements, according to data furnished by Servicio Público de la Vivienda (SPV). There are 91 informal settlements (with about 130,000 inhabitants), covering 10 per cent of the urban surface. Many *villas* are on land left vacant by the railway (some alongside railway tracks that are still in use), on flood plains and on undeveloped state or private plots. The programme Rosario Hábitat, an initiative by Rosario's municipality, was implemented in 2001 with the purpose of integrating the formal and the informal cities and improving the quality of life of the people living in informal settlements.

As with Promeba, the Rosario Hábitat programme seeks to address the problems of informal settlements and *villas* by applying both urban and

35. This draws from Salomón, A and G Barro (2006), "Programme 'Programa Rosario Hábitat'", in F Almansí (compiler), "Gestión urbana, enfoques e instrumentos", *Medio Ambiente y Urbanización* No 65, IIED-AL, Buenos Aires, pages 117-124; also information specially prepared for this paper by Architect Adriana Salomón, coordinator of Programa Rosario Hábitat, and Architect María Inés Capón, director of Servicio Público de la Vivienda, Municipality of Rosario.

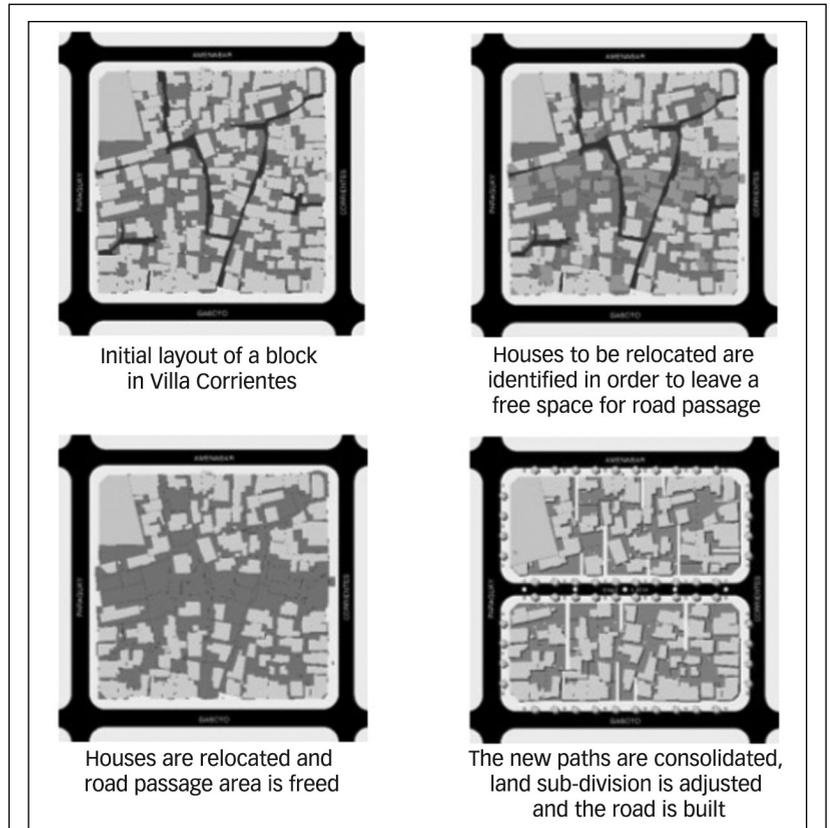


FIGURE 2
Example of the physical transformation of a settlement in Rosario

SOURCE: Servicio Publico de la Vivienda, municipality of Rosario, 2001 (Working Paper).

social policies. Urban and legal actions are combined with measures to create economic opportunities.

When the SPV created the programme in 1999, it already had wide experience of interventions in some of the 91 settlements, but Rosario Hábitat sought to increase the scale. The first stage was meant to benefit about 6,600 families (36,300 people), supported by US\$ 71.7 million, 60 per cent coming from the Interamerican Development Bank and 40 per cent from Rosario's municipality.

The transformation of irregular settlements into formal neighbourhoods was achieved through the following actions:

- new urban planning of the *villas*, the opening of roads and urban regularization, ensuring the provision of basic infrastructure (water and electricity supply, sewers, storm drains, gas, paved roads) and community facilities;
- housing upgrading, ensuring satisfactory sanitary conditions through the construction of a sanitary unit;
- building of houses with infrastructure for families relocated as a consequence of the new urban planning (not to exceed 30 per cent of the total number of houses);
- legal regularization by delivering property titles to all beneficiaries;
- strengthening of social networks, including the beneficiaries' direct participation in the decision-making process: planning, performance and consolidation of interventions; and
- integrated assistance to children and adolescents and their families: stimulating learning and psychomotor skills in children aged two to five, nutrition, self-production of food, recreation, family counselling and social education for children aged 10 to 14.

Land tenure regularization sought to ensure legal security for all families with respect to the plots on which they lived or to which they were moved when relocation was necessary. They include the allocation of state-owned land (from other government agencies) to the SPV, the purchase of private occupied plots, the implementation of the land sub-division and the transfer of legal title to programme beneficiaries. Thus, the programme chose to work in settlements where land titling was possible.

Granting of title to programme beneficiaries takes place at the final intervention stage. It requires the demarcation of the settlement's new land sub-division, the preparation of the final land sub-division plans and the final delivery of infrastructure works. Only when these are completed can individual titles be provided, after verifying the beneficiaries' legal capacity to get title, advising them on obtaining missing documentation and gaining consensus regarding the recovery of a portion of the investment.

i. Status in fulfilling titling goals

As of March 2008, the programme had been implemented in 11 settlements, with the following outcomes:

- 1,013 relocated families have received a house with connections to drinking water, sewers and storm drains, and electricity and natural gas networks. Each area of intervention has been provided with facilities for rubbish collection, lighting, roads and lanes;

REGULARIZING LAND TENURE IN UPGRADING PROGRAMMES

- 2,138 families stayed in the original settlements (which were upgraded). They have now been provided with a sanitation network and connections to drinking water, sewers and storm drains, and electricity and gas services. Every site has facilities for rubbish collection, lighting, trees, roads and lanes;
- two sports centres, two community centres, one health care site and three recreational squares have been built and are open for public use;
- 70 per cent of the families participated in planning workshops; 887 youngsters have been trained and have worked as trainees; and
- 692 micro-entrepreneurs have been trained, 306 of whom have developed microenterprise projects and received economic support and advice.

Five hundred and thirty-three titles have been delivered to new owners and a further 1,287 titles are in the final titling stage (17 per cent of the total number of plots affected by the programme were titled over a period of six years).

As title delivery to the beneficiaries is the final step in the programme's sequence of actions, the number of titles delivered is significantly lower than the number of finished housing solutions. By March 2008, for 3,151 completed solutions, 761 titling proceedings had been initiated (24 per cent), of which 533 had been completed.

Interviews with the people targeted by the programme, after the intervention was complete, showed that 75 per cent appreciated the



FIGURE 3
La Lagunita (2002)

SOURCE: Servicio Publico de la Vivienda, municipality of Rosario.



FIGURE 4
La Lagunita (2005)

SOURCE: Servicio Publico de la Vivienda, municipality of Rosario.

possibility of becoming owners as it ensured legal security; 64 per cent stated that urban regularization and the fact that they had "an address with a street and number" had helped reduce in part the discrimination towards people living in *villas*; 55 per cent considered that the opening of roads and the smaller number of pedestrian paths had contributed to strengthening the settlement's security; 62 per cent appreciated the improvements in water and sewage services, clearly relating such improvements to the health benefits; most of the population are concerned about the need to pay taxes and utility rates; 45 per cent of those living close to the settlements affected by the programme appreciated the upgrading and considered that the economic value of their houses had increased.

ii. Land regularization difficulties faced by the programme

Legal documents and land tax liabilities. The major obstacles hampering the sale of land to private individuals include unresolved inheritance proceedings, the impossibility of finding the owners and, in some cases, the existence of an intermediate preliminary sales contract. In addition to these legal barriers, there are also fiscal problems, such as liabilities with respect to the property tax, the real estate tax and the water supply bill.

Amendments to the regulatory framework. The regulatory framework governing land use had to be modified. Land use regulation in the city of Rosario divides the city into districts, each stipulating different conditions regarding land sub-division and the services required. Many land regularizations in informal settlements failed to meet the required standards, so sub-division plans could not be approved. This, along with the failure to register the sub-division plans with the Cadastre and Territorial Information Service, prevented the execution of the title deeds.

Given the purposes and size of the programme, efforts were made to have a specific ordinance passed to authorize land plots and sub-divisions that respected the existing settlement but that took into account that the minimum area of each plot should be approximately 100 square metres. New roads would have to be 18 metres wide and new pedestrian walkways 14 metres wide. In certain cases, when these rules could not be complied with because of existing houses, the respective Urban Layout Ordinance approved roads or pathways of different widths.

Complex administrative processes to acquire occupied land. The acquisition of occupied land in order to transfer tenure is not an easy task. In the case of private land, an ordinance generally needs to be passed declaring it of public interest, for its subsequent expropriation. The records are then sent to the province for it to enact the respective expropriation law. All this causes delays of up to several years, with negative consequences for solving legal issues. The acquisition of occupied public land is also difficult. When the long administrative process has been completed, new obstacles generally arise at the time of titling, since occupants may have changed due to the purchase and sale of plots, and there may be new occupants in plots that were affected by urban regularization.

Lack of urban land.⁽³⁶⁾ The lack of urban land on which to build new houses also jeopardizes the development of the programme. So too does the lack of land served with piped water supplies and sewers.

36. Article published in <http://www.30noticias.com.ar/>, 2 July 2006.

VI. FINAL REFLECTIONS

The importance of upgrading programmes that deal with all aspects (including the often complex legal aspects of getting beneficiaries legal tenure) is beyond doubt, since improving the quality of life of the population residing in these settlements addresses an outstanding social debt. The Promeba and Rosario Hábitat programmes both sought to respond to these issues and included land tenure regularization as one component.

These programmes show that land tenure regularization (which is a requirement for a settlement to be included) is not an end in itself but, rather, the culmination of a process meant to improve the population's social and housing conditions. But they also show the difficulties in accomplishing the legal goals. Only 8.5 per cent of the plots affected by the Promeba programme and 17 per cent of those affected by the Rosario Hábitat programme have received formal land titles. The two programmes respond to different local contexts. It is certainly not the same to overcome legal difficulties in the context of a municipality promoting the programme itself, where actors and regulatory frameworks are the same in the different interventions, as it is to have a wide range of different actors and frameworks in each jurisdiction, as with Promeba. Besides, in Rosario Hábitat, interventions are framed within a long-established municipal land planning process, which is not the case in all the country's municipalities. Promeba has to make sustained efforts to raise awareness among the various actors of the comprehensive approach of the proposed interventions in each jurisdiction where it is implemented.

This paper does not seek to make a comparative analysis of these two different programmes, but it is worth noting the common obstacles and restrictions they both faced in meeting the desired legal goals.

First, it is important to highlight again that these programmes consider informality as a problem framed within land management and with strong social determinants. Thus, the formalization of land tenure rights is a clear objective in a process that seeks the integration of the settlements into the wider urban area and the social inclusion of the population. Returning to some of Riofrío's theoretical concepts, these programmes consider that not only is tenure security achieved through the delivery of title, but also that it is closely related to access to social benefits and networks and the upgrading of environmental conditions.

The results of both programmes, which have institutionalized this comprehensive approach to upgrading, allow us to start placing on Argentina's agenda the debate about the obsolescence of land use and sub-division policies and the consequences of not having in place an inclusive land use planning policy. A study of the urban and social impacts of their interventions might provide an important input into considering necessary amendments and streamlining existing regulatory frameworks.

The main obstacles noted by both programmes may be divided into structural or management barriers. The three major structural obstacles at the time of intervention were, first, the scarcity of land or the difficulty in acquiring it; second, the social and economic situation of the population living in the *villas* and settlements; and third, the absence of adequate regulations providing for the urban and legal regularization of existing informal settlements.

The lack of urban land, in the case of Rosario Hábitat, and the administrative difficulties in acquiring land, in the case of Promeba, hinder the

availability of one of the principal resources required for the urban and legal regularization process. Programmes like this need to be accompanied by a land policy that provides land for housing that can be afforded by low-income groups.

The social and economic situation of the population living in *villas* and settlements is not immediately changed by the legal transformation of occupation status. The financial pressure exerted on families below the poverty line as a result of moving from informality to formality is another cause of expulsion that threatens the sustainability of regularization programmes.

Many settlements are illegal because they are unable to comply with the inappropriate regulations in force. Thus, the current regulatory framework clashes with reality and does not serve to support the growth of urban populations in Argentine cities. Laws based on civil principles concerning individual, private and almost absolute property rights still consider the city as the aggregate of individual plots detached from the urban and social network. The various government actions undertaken, including these two programmes, can do nothing to address this – and thus follow the growing problem from behind, often falling ever further behind the scale of need.

The law and regulations force informality to adapt to pre-established systems rather than accommodating it and recognizing the major role played by informal institutions and social rules systems in finding solutions. When the urban and legal standards proposed by legislation are completely inappropriate to the social and economic situation of the individuals to which such legislation is targeted and to the existing urban and environmental conditions, they are condemning a great part of the population to being informal, outside the law. The great challenge is to analyze how legal frameworks, under the rule of law of formal institutions, can act as facilitators or promoters of equitable land development and guarantee a favourable environment for sustained development in the light of the different (and often conflicting) interests at stake.

If these larger issues are not addressed, the new beneficiaries of Promeba and Rosario Hábitat – now landowners, with adequate houses, integrated into the urban network, but still poor – are at risk of being displaced again by the market. Here, they are pushed by the costs they face from taxes from reappraised land values and by formal market prices for municipal services; and however strong the efforts to regularize settlements, they will never catch up with the problems created by the lack of a land regulation policy with a distributive and social approach.

Local policies have difficulties adapting to the problems of informality, especially in anticipating these and putting in place the measures that allow low-income households to find accommodation in formal legal settlements. The slow pace of administrative proceedings, mainly caused by the dispersion of agencies with competencies on the issue, should also be noted. Another barrier is the housing approach still favoured by some officials, which does not address the issue of informal settlements.

The two programmes described in this paper have shown that upgrading with land tenure regularization strengthens beneficiaries' feelings of inclusion and stimulates private investments. In addition, it has been demonstrated that most beneficiaries go on living in the upgraded settlements and have made numerous improvements to their houses since the programme interventions. Therefore, the concrete outcomes 10 years

after the programme implementation allow us to propose a public debate about the need to discuss new parameters within the existing legal and administrative frameworks with regard to the distribution of urban benefits. These need to respond to the territorial reality of our cities and the social structure of their populations, with a view to overcoming the sharp social and spatial inequalities and to lead to the implementation of urban policies that give priority to the social, environmental and cultural issues within urban development.

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