

# **Advancements in Reducing Land Fraud in Selected Countries**

by  
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Property rights are social institutions that define and limit the privileges to private ownership. Property rights are embedded in other institutions and a variety of other legal rules, labour regulations, banking regulations and the customs of the society. Constant changes to the law add new layers of complexity and challenges for property rights rules.

I give below several measures taken to reduce land fraud development in countries. I have used the information gathered by me during my legal practice in Sri Lanka and other jurisdictions and from discussions I have had with registrars of land, academic staff of universities in Australia, the UK and USA, think tanks in UK and USA. These professionals search for ways to empower the poor by establishing property rights and by working out solutions to recognize customary rights to empower land owners to improve the economies of countries.

## **Land Fraud: A White Collar Crime**

Markets in land unlike the sale of movables require several third parties such as solicitors, notaries, agents, brokers, insurance professionals, surveyors and escrow companies. They together with the land registry officials are the custodians of property rights and the rule of law. The conveyancing process is extended to electronic media and there is in addition a set of professionals like computer experts who have entered the conveyancing process.

Unfortunately the situation in many countries today is different from the professionalism of the past in that these professions contain people who connive to commit land fraud through money laundering and identity theft. These white collar criminals are difficult to detect and difficult to punish. All nations need to address this phenomenon together as techniques of fraud seep through national boundaries, and working in isolation will allow fraud techniques to cross borders.

Before coming to the topic I would like to describe the methods of registration available.

## **Title Registration**

Title registration is a system of land registration where a register of land holdings is maintained by the state, and the state guarantees an indefeasible title to those included in the

register. The system was formulated to combat the problems of uncertainty, complexity and cost associated with old system of deed registration, which depended on proof of an unbroken chain of title back to a good root of title. The government warrants and defends the registered owner's rights under the title registration system. In some countries, if an owner's name is substituted by fraud or forgery the remedy would be to obtain compensation from the special fund maintained by the land registry. Theoretically, once a piece of real estate is registered in another person, a person with a valid claim on the title cannot recover the real estate.

Land registries are reluctant to admit fraud and pay compensation to defrauded owners. They also need to be careful as the burden of an individual loss is passed on to the general public when compensation is made from a public fund. For example in the UK several parties affected by fraud represented facts to parliament and a member of parliament had to intervene to make the land registry pay compensation for the loss of land rights

The title registration system spread among many western nations in the 19<sup>th</sup> century. The migration to the system from the existing land tenure system was systematic being mindful of the needs of the countries undergoing the transition. Over a century they have improved the system and they have maintained safe institutions supported by regulated professional services.

### **Deed Registration**

After the foreign rulers left the countries they had ruled, the land holding methods in many of the Asian countries fell back into customary tenures. Many also had a fairly established Deed Registration system where ownership to land depended on the deed and the archives available relating to former owners. The system is based on an implied warranty by the former owner to defend the rights of the purchaser. If there is a displacement by a third party by way of forgery the owner has a legal right to prove the ownership to recover land rights.

For the past 50 years governments of all countries concerned are encouraging the enhancement of rights to private property for economic improvement by introducing Title registration. Many transition countries have embarked on implementing too sophisticated registration systems inspired by the central European tradition. Securing tenure to facilitate mortgaging and land taxation could have functioned with an improved Deed registration system or less sophisticated Title registration system suitable to the country. From the day Title registration is introduced it is necessary to have a dynamic and well trained working team to continuously find answers and solutions to protect land rights rather than search for legal solutions as the system depends on the state of the rule of law of the country.

Accordingly there are two sets of countries affected by land fraud today

1] Countries with efficient land registries established for over a century with trained staff and strong regulatory authorities maintaining the rule of law and discipline. The compensation funds of these land registries have billions of dollars collected from taxes and sale of title sufficient to pay compensation which does not amount to more than 1% of annual revenues.

2] Transitional countries and countries that adopted the system recently within the last 40 to 50 years where techniques of fraud may be different with a greater level of corruption if they have not introduced the institutional environment and the disciplinary regulations for professionals which had developed for a century or more in the western nations.

### **Title registration in Hong Kong**

Hong Kong was slow to accept immediate migration into title registration via what is known as a 'midnight conversion'. and opted to examine carefully the existing tenure patterns to assure that the transfer into a new system would take place without any conflict of interest. Today in Hong Kong Qing Dynasty customary rights are still available for those who are accustomed to the system. Hong Kong has taken 12 years to research the merits and demerits of the title registration system over the deed registration system. Valuable contribution has been made by the committee appointed to monitor the transition to meet the challenges of the 21st century. [Source: Discussion with Registrar of lands Hong Kong]

### **USA - Title Insurance**

Government management of property rights, government guarantee of rights and the payment of compensation from a common government fund was not attractive to USA. They have a recordation of title evidence rather than a registration of rights like in other countries with a title insurance scheme. The private sector is able to indemnify owners for the past defects in land title. Torrens system has been criticized for departing from conventional principles of US real property law and for exposing owners to the risk of losing their rights through fraud.

### **Defective Title Insurance Sri Lanka**

Sri Lanka in 1972 opted to create a title insurance system rather than introduce title registration. [I was personally involved and was working in the Insurance Corporation when the first policy was issued.] We required a quick and inexpensive remedy to widespread informal tenures, and we found that de facto rights of owners to land although lacking in documents were marketable they were in fact de jure rights undisturbed by any one. All that was needed was a plan and a deed to make them credit worthy. An insurance scheme was created to guarantee the rights of these owners and a set of documents were formulated for them such that they had access to bank credit.

A special deed was prepared for each land parcel, reciting the devolution of title. Plans were drawn to show the physical boundaries by private surveyors. The deed was registered under the deed registration system and the government insurance company issued an insurance policy on the registered deed, referred to as a Deed of Declaration.

Banks were happy to accept the Mortgagees Policy or government guarantee, assuring payment for loss of rights to land. Future defects and claims were insured unlike the title insurance in USA. The scheme was funded by government. Owners' policies were also issued to safeguard the owners who did not require bank loans. The system also paved the way to educate land owners as to the benefits of registration which is a prerequisite for title registration in countries where customary rights have prevailed for centuries. The stamp duty was negligible and the cost even today to execute these deeds is about 20 Dollars.

The insurance method called 'Defective Insurance' is hardly known, I would recommend it to other Asian countries. This is a viable product supported by government as an alternative to the fund under title registration system.

It would be very useful to gather empirical evidence about title claims and land fraud in the State of Iowa in USA, where the state sells title insurance and prohibits the sale of private title insurance.

### **Bermuda [an example of a better way to establish title registration]**

Attempts were made for the last 50 years to establish title registration in Bermuda. They failed due to lack of implementation methodology and the lack of a specific requirement in the country. This matter was being constantly postponed and today [presently based on established principles] and international best practices customized to Bermuda, title registration has commenced. This is a better way to avoid land fraud and corruption. [Source: John Meadows and Mark Griffin Land Title office Bermuda Registrar and Project Manger Bermuda.]

### **Electronic media and conveyancing in developed countries**

Marketability of land has progressed to the extent that a person from one country can transact with a party in another country via the electronic media without ever seeing the property. The parties to the transactions may not meet and the lands may not be seen. Such paperless and faceless transactions will require high security. For example, information is found in the internet that real estate companies which are shut down for fraud in countries are operating in the Asian countries and selling land in western countries with attractive TV advertisements.

Cross border transactions will increase in the future especially with the European Union preparing the Euro title system, where a person can reside in one country and purchase a home in another country. The European land information system projects bring together jurisdictions in one portal. Title registration therefore is an on going project and needs to be daily up dated to meet the demands of the global market.

The computer professionals have a great grip on society which affects the psyche of the society to embrace all the possibilities immediately. However, the necessity for such speed for property transactions in an environment of potential fraud is debatable. This is a good warning to the countries who have introduced the system of title registration to be slow to embark on ambitious electronic conveyancing methods.

### **New Zealand**

Computers have almost completely transformed the way in which land registration operates in the country. The system of title registration operates completely on trust. 'Landonline' system has been substituted for the face-to-face transactions. The system is a success, where the very important factor is that lawyers have always played their part as trusted professionals in the conveyancing profession. [Source: In New Zealand Robbie Muir Land Register]

### **United Kingdom**

In UK the land registry introduced the process of scanning mortgage documents. A country which has a well organised monitoring process immediately detected the possibility of fraud and the system was withdrawn reverting back to manual methods.

Reported case in UK: Developer conniving with a solicitor executed a deed fraudulently for a parcel of land to take advantage of the electronic first registration procedures. In the early days in UK first registration took place when property changed hands. The real owners claim in this case was rejected by court, although he had a valid deed for 25 years. The owner's claim was that electronic methods encouraged fraud. Previously ownership could be searched only with the owners present and permission was unacceptable.

Clear rules and correct administration procedures are necessary to protect those who have limited knowledge. The register may exclude senior citizens, heirs after death of owners, owners who have lost their documents due to natural disasters, all to the advantage of fraudsters in the process of conversion to title registration even if the electronic media was not in place.

After the cyclone in Sydney, duplicates of the certificate of title or ownership documents were obtained from the land registry on forged documents. The fraudsters pretended that the documents were lost when the owners had the documents and were residing in a different state. The properties were sold and mortgaged. The owners managed to prosecute and obtain payment from the land registry fund for several cases. [Source: public prosecutor, Sydney, Ananda Amaranath Solicitor, NSW]

**Solicitors Practice New South Wales Australia**  
**<http://www.lawsociety.com.au/page.asp?partid=15276>**

The web site indicates the details of regulations for solicitors which have recently increased. Annual practicing license to solicitors are issued subject to conditions. A mandatory Continuing Legal Education Certificate [MCLE] has to be obtained after at least 10 training sessions every year. The fees for insurance and solicitors exceeds 1000 Dollars per annum.

**United Kingdom <http://www.sra.org.uk/consumers/consumers.page>**

Consumer protection has been stressed by the Solicitor Regulation Authority through its code of conduct. Solicitors Regulation Authority, other organizations and the Land Registries have also undertaken measures to protect the consumer. They have circulated guides and magazines very frequently for the benefit of land owners and solicitors. The latest is Public Guide 17 of June, 2008 by the land registry describing how to safeguard against property fraud

Non compliance of the notices will have serious consequences. The burden today on solicitors is far too excessive and the charges for insurance and the payment to the law society makes it almost impossible to set up an individual practice Article in the Law Society magazine 'Gazette' states: "It is over an year since the Solicitors Code of Conduct came into operation. Many firms are struggling with the overall burden of compliance as the Solicitors Regulations Authority has begun to flex its muscle."

**Management Consultants**

Practice Management Consultants are a new group of private sector consultants. They keep tab on the multitude of regulations that are circulated to help banks and solicitors and they advise on best practices.

Land fraud is amazingly pervasive in the UK; a Fraud and Confidential Intelligence Bureau has been set up dedicated to gathering information and intelligence, operating in accordance with the National Intelligence Model. This is the latest notice issued:

*'If you know, or suspect, that another solicitor, or their employee, is involved in dishonest or serious misconduct, contact our Red Alert line on 0845 850 0999 or 01926 439673 or email [redalert@sra.org.uk](mailto:redalert@sra.org.uk). Red Alert is available to all members of the profession and their staff who want to report concerns.*

*Any report you make is treated with strict confidentiality. If you are a consumer or a member of the public, please follow the reporting instructions provided in Recognising fraud and dishonesty.*

*Examples of the type of conduct you should report to us are*

*misappropriation from client account,  
suspected money laundering through the profession,  
mortgage fraud,  
abandonment or sudden closure,  
arrest, charge or conviction of other solicitors or their employees,  
suspected dishonesty,  
financial problems,  
a person pretending to be a solicitor.'*

Canada Ontario's Minister of Government Services also has assembled a working group of police officers, realtors and representatives of financial institutions, to propose ways of changing Ontario's laws to protect victims of mortgage fraud [ star.com reports ]

### **New subject and lawyers employed in Land Registries in UK [ to protect rights ]**

A new subject known as Land Registry Law is available to all, owners, solicitors and land registry staff. The land registry now employs lawyers conversant with the subject to determine the validity of documents presented for registration which the Registrar has the full authority to reject if the signatures and other requirements are not acceptable to him.

### **Archiving**

Discussing with solicitors practicing in Australia, UK and Hong Kong I was amazed to find that archiving was a solution recommended to day by the developed countries to prevent fraud. This idea is moving closer to the deed registration system The burden of keeping the archives has shifted to solicitors who attest documents and the cost for a solicitor per annum would be about 1000 dollars.

### **The guide lines for documents and archiving**

Conveyancing practice requires two solicitors for a transaction. Written offers and acceptances prepared by two different solicitors are legally required. Thereafter all matters are generally transacted in writing. Finally, Agreements to sell are executed and followed by mortgages and sale documents. All the pre-sale documents are archived with signatures of parties transacting. Solicitors are responsible to maintain the files for future reference especially in cases of fraud to identify signatures. In Hong Kong, a space to store the archives costs about 1000 Dollars per annum.

### **Promoting Centralization of land document administration**

The administration of property related documents is not linked so that administrators cannot get easy access to documents filed in other institutions. Land and property related documents in most countries are spread over wide and diverse number of organisations [eg Ministries and acquisitions, local authority regulations and zoning planning organizations.] Searches today are inevitable to determine the interests of others.

Also, there are so many unregistered overriding tenure rights today which were unknown in 1858 when the title registration system originated. This situation gives a great chance to fraudsters. Examples are land parcels sold by developers mostly in UK and USA . Properties are beautifully laid out and advertised for a low price. The advertisements are on TV and in magazines of professional organizations such as medical journals. I have been consulted by people who have deposited advances to purchase such properties. Properties are subject to regulations of planning authorities. Once the advances are collected the sellers leave the country. The companies that have been found guilty of such practices are now selling land in the Asian countries.

Another related complication in today's global economy is identification of the seller, especially a corporation which may change its name or the authorization of representatives. Sale by legal persons such as companies and partnerships require a search in the Company register and an owner should be aware of those entitled to sign on behalf of companies. But often access to such information internationally is very difficult.

### **Registration of acquisition Procedures by Government and all other organizations**

It is necessary to streamline and make more transparent the operations of various organizations with the right to acquire property. Even solicitors would not know the defused state of rights of ownership which are not registered. In Sri Lanka Land Acquisition Act requires registration of notice to acquire a property. This is a good method to notify the public to be aware of prospective acquisitions.

### **Northern Ireland [To bring all interests of land under one roof for easy reference by purchasers ]**

Northern Ireland formed a Land and Property Service Agency in 2008. The Agency will bring together most of the agencies involved in land transactions to form a one-stop-shop. [Source: Land Registrar Northern Ireland Tercentenary celebrations Dublin]

### **Identity**

Identity theft is a main cause of land fraud and fraudulent Powers of Attorney are commonly used in the process. Owners are vulnerable when houses they own are tenanted. The

fraudsters who may be tenants or friends of tenants obtain all the relevant documents from the house, such as utility bills. Being familiar with owner's signature the fraudster obtains the Powers of Attorney and together with professionals they connive to arrange bank loans after transferring the property to themselves.

Sri Lanka requires a special power of Attorney to deal with land transactions which has to be registered in a special register. The power of attorney holder should accept the document by way of an affidavit signed by a J.P who certifies the validity of the signature of the power of Attorney holder. Double identity check is available as the notary executing the Power of Attorney cannot execute the document without witnesses to identify the parties, similar to a deed attested by a notary. An option is available to register the power of attorney in the land registry.

### **Cancellation**

Fraudulent cancellation of Mortgage bonds is a frequent occurrence by those who forge documents to execute primary bonds. In Sri Lanka a mortgage bond can be canceled only on submission of the original. If the original is missing a deed of Cancellation [notarially attested ] has to be registered to discharge the bond.

### **Oblige the owner to identify himself, not just by witnesses**

The problem of identity has been a major problem for all countries. I would also like to mention that as a person engaged in attesting documents that I find it strange that a land owner or the holder of a Power of Attorney is not obliged to prove the identity from the document and has to request others to identify the signature [ witnesses].

### **Obligations of owners.**

- 1] Owner should have a tangible document
- 2]The document must bear the signature and biometric requirements such a thumbs impression photographs etc. Property transactions should only be made with original documents belonging to the owner.
- 3] Donees [ the person who receives the gift] signature on the deed is essential [in Sri Lanka deeds of gift are valid only if the owners signature is available accepting the gift.]
- 4]The signatures should be affixed in the presence of the transferor, the transferee and the notary or solicitor attesting the document. The witnesses must know the owner and the notary if the notary is not known to the owner. Alterations should not be made after signatures [Act no 7 of 1840 or Prevention of Frauds Ordinance Sri Lanka ]
- 5] Solicitor should affix a certificate of compliance of all above and the names addresses of the witnesses and the solicitor.

Items 4 and 5 would be good methods to practice as the practice of requiring two solicitors is uncommon in certain countries for transactions, and retaining the documents or archiving would be too expensive.

The above principles are useful for Asian nations as people have long names which are also given to their children.

I recently had an interesting experience of having the photograph of the owner and his signature. I was able to detect the son who had the same name and appearance without the hair who tried to use the father's ID whose photo showed him to have bushy hair when he was out of the country. It was a transaction of a large coconut estate.



### **Prevention of Frauds Ordinance of Sri Lanka**

To the credit of Sri Lanka we had a reasonably good deed registration system which could have been improved by re-organising to prevent corruption in land registries. The above mentioned options 4 and 5 were embodied in a statute called Prevention of Fraud Ordinance, which came into operation as far back as 1840. This ingenious legislation continues to solve the problems of the next century.

### **Extension of documents for establishing identity.**

Identity cards are prepared by reference to authentic documents such as Birth Certificates, Marriage Certificates and Death Certificates. Analysis of the documents shows that they have insufficient information which could identify a person. The information should be extended to have a better account of the person—for example, names of parents and children and their addresses. These documents which are the basic documents to form ID'S have not been updated in many countries. Australia and France have much more information. France has a family book which gives very extensive details about each person.

An example would be to include the parents and names of children and their addresses in Death Certificates. This would prevent fraudsters from depriving family members of their title. In poorer families testamentary processes are not carried out. Most probably after the first registration they may not register land title but go back to de facto possession until someone takes advantage of the situation to fraudulently register the land.

### **Australia--Brisbane**

Identification is graded. A 100% level on the scale would be a driver's licence, plus ID Card, plus a passport. If a solicitor opts for a lower scale the liability would be on a higher scale for the solicitor in the event of land fraud. See:  
[http://www.nrw.qld.gov.au/property/titles/pdf/jp\\_awareness\\_brochure.pdf](http://www.nrw.qld.gov.au/property/titles/pdf/jp_awareness_brochure.pdf)

### **Practices which have been recently adopted : Land registries are given extensive powers**

- 1] to check the witnesses and the attesting J.P's signature by calling for documents . The supplied documents for checking are placed in the record.
- 2]spells out the way to sign; pens with black or blue ink, signatures on space provided etc.
- 3]full name of those attesting documents to be clearly printed
- 4]Mortgage companies have responsibility to identify the mortgagors and their signatures. Other lenders have a separate set of rules.

### **Organizations to promote safe land administration**

USA-The Property Records Industry Association (PRIA) is a non profit, private organization. The Association represents a unique partnership of business and government members of the property records industry, with the end goal of facilitating recordation and access to public property records. This goal is accomplished by facilitating the research, development, creation and implementation of national standards, systems and procedures for the industry. The professional skills and industry knowledge provided by PRIA members, combined with a unique diversity and neutral objectivity, make possible responsible evaluation and formulation of industry standards. Following extensive research and

discussion, and working cooperatively with their industry allies, standards for land administration are developed. Recently judicial training programs are organized by PRIA as members of judiciaries are often not familiar with the process of conveyancing and land registry system.

### **Judicial Training**

Property law is the relationship of property and the owner and the owners' rights. Lawyers and judges are conversant with property law. Conveyancing is the knowledge of transfer of the ownership which is mostly non legal. There is a need to train judicial officials as there is hardly any legal research on the subject and a lack of jurisprudence perhaps due to there having been no challenge to the registration process before the recent upsurge in land fraud.

An important institution internationally for improving land administration is the Working Party on Land Administration, WPLA established by the UN Economic Commission for Europe in 1996. Its functions include:

*Influences international trends in land administration. Hopes to influence regions and countries outside Europe including those that are transition countries.*

*Providing meeting places for experts and managers*

*Raising awareness*

*Facilitating access to information*

*Developing guidelines for land administration.*

[Source: Helge Onsrud Senior adviser Norwegian Mapping Authority and Chairman of WPLA]

### **Degrees for land registry procedures and Conveyancing**

University New South Wales encourages governments, universities and the professional associations to change relevant curricula to include Land Administration as a subject of study and research. They stress the need for a knowledge based land registry system. Post graduate programs such as the graduate diploma program in the University of New South Wales open an avenue to study land information, project management, land registration systems and all matters associated with land administration.

### **Deferred indefeasibility**

When the law is changed to grant relief to the first transferee known as deferred indefeasibility the fraudster will only adapt their methods to the rule, and that if a further transaction is required, that is what they will do. In recognition of this, Canada has gone for 'deferred indefeasibility plus' - a rule in which if a fraudster forges a transfer to himself or an accomplice and that person then transfers or mortgages the land to an innocent purchaser/mortgagee, the latter does not get indefeasible title. Indefeasibility is deferred until the next bona fide purchaser takes a registered interest. This is a different version of the rule from deferred indefeasibility as understood in Australia.

Can the problem of fraud be solved by changing the main principle of title registration from 'indefeasible' to 'deferred indefeasibility'? It may be worth debating on this topic as this might create a situation eventually after many years of ownership someone will ask you to leave your home and ask you to pay a mortgage which you were never a party to.

### **Deferred indefeasibility**

According to Australian judicial decisions, if a name is registered fraudulently as an owner of a property, action in person is available to the true owner. However some courts in Australia realised that although fraud is an exception to the rule which bars any action against a registered owner this right would undermine the registered owner's ability to enter into transactions. Therefore the case law gave a direction that the registered owner must be found guilty of fraud to effect any changes to the register. Merely void or voidable transaction would not be sufficient. {Source: Professor Pamela O'Connor Security of Property Rights and Land Title Registration System [The case law in 1994 New South Wales Law reports and New Zealand Law reports.]}

To choose between indefeasible and deferred indefeasibility is a difficult task. Either way the problems could increase. Besides the Torrens system did not safeguard the former owner but guaranteed title to the registered owner even if fraudulently registered.

This reminds me of Newton's laws of dynamics. Anything will remain in motion until disturbed; for every action there will be an equal and opposite reaction. Title registration for many people is synonymous with the rule of law and is not meant to be disturbed. But fraud is disturbing.

Deferred indefeasibility was considered to have several parties: original owner, intermediate owner, the bank holding a mortgage, and legitimate innocent purchaser. Judicial opinion indicates that the intermediate owner and the bank had a 'chance to investigate'. The burden is shifting and the banks' attitude 'in the normal course of business' may have to change with regard to identifying parties. The case law in Canada has opened the door to the banks to request compensation from the government title guarantee fund where in previous cases access was denied. The present view is that the refusal should come from the fund. [Lawrence vs Maple Trust case in Canada].

Many countries are turning to deferred indefeasibility, alleviated by judicial discretion as a statute cannot specifically direct, as the matter now rests on circumstantial evidence.

### **Banks and fraud**

The bankers need to be vigilant with regard to identity as deferred indefeasibility may leave the banks isolated unable to claim from the registered owner or from the guarantee fund. The case law has stressed that deferred indefeasibility plus requires proof that there was due diligence. And that the parties to transactions had a chance to investigate. [Example a Power of Attorney executed several years prior to the transaction due diligence must be exercised to know whether the owner wants to act through the power of attorney.] The banking sector is expected to monitor new clients who apply for large loans, inter-family purchases which transact property by way of gift but pretend to be purchases. Back-to-back transactions where property changes hands within a short period with large increases in values and over

valuation where money is either returned or shared and large cash payments are made for part of the purchase price.

### **Title upgrading system may be useful to detect fraud during ownership**

Title registration could be upgraded after the first registration as practiced in in Canada. For several reasons a request can be made by the owner for upgrading of title.

Examples -----

Land is to be mortgaged

There are boundary problems

Condominium construction is to be constructed

Introduce parties on succession

Owners can also simply apply for revalidation . The registrar will look into all aspects and renew the title .

### **Norway**

The following experiences from Norway may be of particular interest to other countries:

[Source: Helge Onsrud Senior Advisor Norwegian mapping authority]

- The registration of documents takes only 4 days. The gap period to commit fraud is almost entirely eliminated
- Successful outsourcing of technical elements of the operation of the Land Register and the Cadastre to private sector companies, but retaining registration of data into the registers as a responsibility of the governmental offices, as well as maintaining the overall responsibility and liability for the registers in the public sector
- Successful use of competing private distributors selling data from the registers to the market this may increase the finances of the fund.
- Successful co-ordination of the Land Register and the Cadastre by providing an integrated one-stop access but at the same time maintaining two separate databases
- The importance of using identical identifiers for the same objects in the Land Register and in the Cadastre, and that no property numbers should be introduced in the Land Register unless it is registered in the Cadastre in beforehand. Fraud is negligible in the country. However the recorded information is duplicated and it is not possible to change the name of an owner.

### **Alternative solutions to compensate for land fraud.**

#### **Title insurance**

'Double indemnity' is a paper written by Associate Professor of the University of Monash which explains the issue of funding the consumer other than from the government guarantee fund. The discussions of the New South Wales Law Reform Commission questions whether private title insurance could be substituted for the existing State guarantee of Torrens title or title registration.

#### **TitlePLUS**

TitlePLUS coverage is comprehensive. It automatically covers both the home buyer(s) and their lending institution(s) under the same policy, for one price. TitlePLUS title insurance covers both the title-related risks and the legal services provided by the lawyer in the transaction TitlePLUS title insurance standardizes legal services. The policy dictates standards by requiring lawyers to follow a defined set of searches, inquires and procedures, thereby improving legal services.



My experience with clients who have been subject to fraud is truly sad, as the majority do not wish to pursue any course of legal action as they cannot afford the cost and the time involved. They also fear reprisals from external forces which have presently become an additional problem. The law and amendments to the law may not be the only solution.

It is clear that reducing land fraud is related to the state of the Rule of Law of a country and the introduction of title registration alone is not sufficient to secure land title in a country. A process of constant monitoring by those who have the knowledge and the ability to challenge the sophisticated techniques of fraud would be of great advantage as a preventive method.

The methods so far discussed focus on the necessity to take into account the variety of stakeholders involved in property transactions, with special emphasis on training those who should be managing land registries and introducing security measures..

Land fraud involves both the Civil Law and Criminal Law. The best practice for a solution needs discussions, interaction and the dissemination of knowledge including academics, professionals, owners, economists and all those who are involved in criminal investigations.

It is my hope that this conference will give an impetus to recognize the necessity for a global forum to save the health of the land registries and the title registration system.

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