



COALITIONS FOR CHANGE:
**EXPEDITING
PHILIPPINE
GOVERNMENT
LAND TITLING**



NEW RULES ISSUED

TITLING PHILIPPINE GOVERNMENT LAND NOW EASIER AND FASTER

Many Philippine national agencies and local governments continue to occupy untitled land. These include among others, city and municipal halls, public schools, state universities and colleges, halls of justice, police stations, post offices, public hospitals and health centers, and public parks and plazas. These government facilities are at risk to displacement should there be usurpation or claims of ownership for the lands occupied. The Philippine government issued a policy to facilitate the titling of these government-occupied parcels in June 2016 to address this. This story traces how Coalitions for Change (CfC) worked with government partners to develop and implement innovative strategies to introduce this transformational land reform.

DEVELOPMENT CHALLENGE

The lack of titles by many government agencies can be traced to a titling process that involved multiple levels of approvals – including two separate Presidential approvals. Based on the Public Land Act of 1936, a first Presidential proclamation sets aside the land for public use, while the second proclamation awards the land title to a specific government agency. With the numerous steps involved adding to these two Presidential proclamations, many government agencies were unable to meet these land titling requirements.

While there is no comprehensive database of untitled government parcels, this issue has led to a number of cases that portray how development is hampered.

- In the infrastructure sector, the tender of a public-private partnership project (PPP) to build and operate a bus terminal for the Southern gateway of Manila was delayed for years since the construction was going to be on an untitled government-owned property. The lack of a formal title made the winning contractor reluctant to make investments in the property.¹
- In the health sector, the PPP to modernize the Philippine Orthopedic Center suffered a major setback due to property rights issues, leading to the termination of the contract. This was because the Department of Health (DOH) was unable to give the “certificate of possession” for the project site.²
- One of the objectives of the Electric Power Industry Reform Act was to privatize government-owned generation plants. The lack of land titles affected and delayed the sale of some of the government’s power generating assets to the private sector. With the demand for electricity projected to outpace supply in five years, the inability to privatize generating assets due to the lack of titles may contribute to potential power shortages.³
- In the education sector, the lack of titles for about 40,000 public schools renders students and the faculty vulnerable to displacement, should there be usurpation or claims of ownership for the land schools occupy. There have been cases of public schools being evicted as they lacked clean titles. Some private donors have refused to donate classrooms to schools that were unable to present proper titles.

¹Kris Bayos, “Southwest transport terminal delayed by lack to title to site location”, Manila Bulletin, March 3, 2015

²Chrisee Dela Paz, “Megawide terminates PH Orthopedic modernization project”, Rappler, November 17, 2015
<http://www.rappler.com/business/industries/208-infrastructure/113067-megawide-terminates-ph-orthopedic-ppp>

³Ted Torres, “Power demand to outpace supply in 5 years – EIU”, Philippine Star, May 22, 2015

REFORM ORIGINS

The Australian Embassy in the Philippines and The Asia Foundation, through its Coalitions for Change (CfC) flagship program, hopes to effect policy reform by encouraging civil society, the private sector, the academe, and the government to work together and contribute to transformative change.

Coalitions for Change works on development concerns that are consistent with the Philippine government's agenda: improving education outcomes, reducing vulnerabilities to disaster, ensuring peace and stability in Mindanao, promoting economic growth, and advocating for effective governance.

The effort to properly title government land traces its origins to a law passed in 2010. The Residential Free Patent Act (RFP)⁴ is a two-page law that introduced two main innovations:

- The creation of an administrative procedure to replace the longer and more expensive judicial procedure for titling residential land
- The devolution of the authority to approve title applications from the DENR central office to provincial offices.

The RFP law led to a significant increase in the number of residential titles issued – from an average of 4,000 titles before the law was passed, the government now issues about 55,000 titles annually.

While the law primarily covered residential lands, Senator Edgardo Angara included a specific section to facilitate the titling of government lands. As a former Education Secretary, the Senator witnessed first-hand the eviction of public schools due to the lack of titles. The included provision states that: “public land actually occupied and used for public schools, municipal halls, public plazas or parks and other government institutions for public use or purpose may be issued special patents under the name of the national agency or LGU concerned ...”⁵

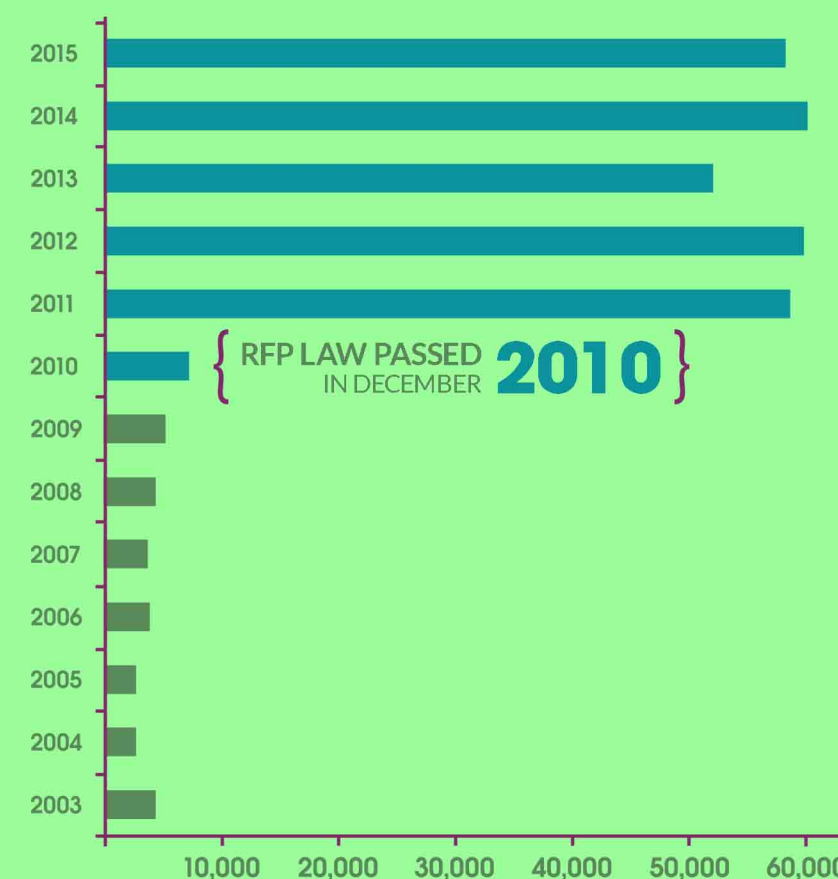
In spite of its inclusion in the RFP law, DENR was not able to issue specific implementing rules as some argued the provision covering government lands was merely a “rider” since the law’s title focused on residential lands. Some believed it would be illegal for DENR to issue rules. On the other hand, RFP advocates pursued the issuance of a comprehensive set of rules for all types of government lands. But over time, it became clear that there were too many diverse interests and considerations to arrive at a consensus.

Due to these opposing views, almost four years passed with no progress in issuing new rules to simplify the titling of government lands.

⁴Republic Act No. 10023. For a detailed story of the political process to introduce the law, see “Property Rights Reform in the Philippines: The Residential Free Patent Act” by Calixto Chikiamco and Raul V. Fabella available at <https://asiafoundation.org/resources/pdfs/Chapter6.pdf>

⁵ Section 4 of the Residential Free Patent Act

NUMBER OF RESIDENTIAL TITLES ISSUED (2 0 0 3 - 2 0 1 5)



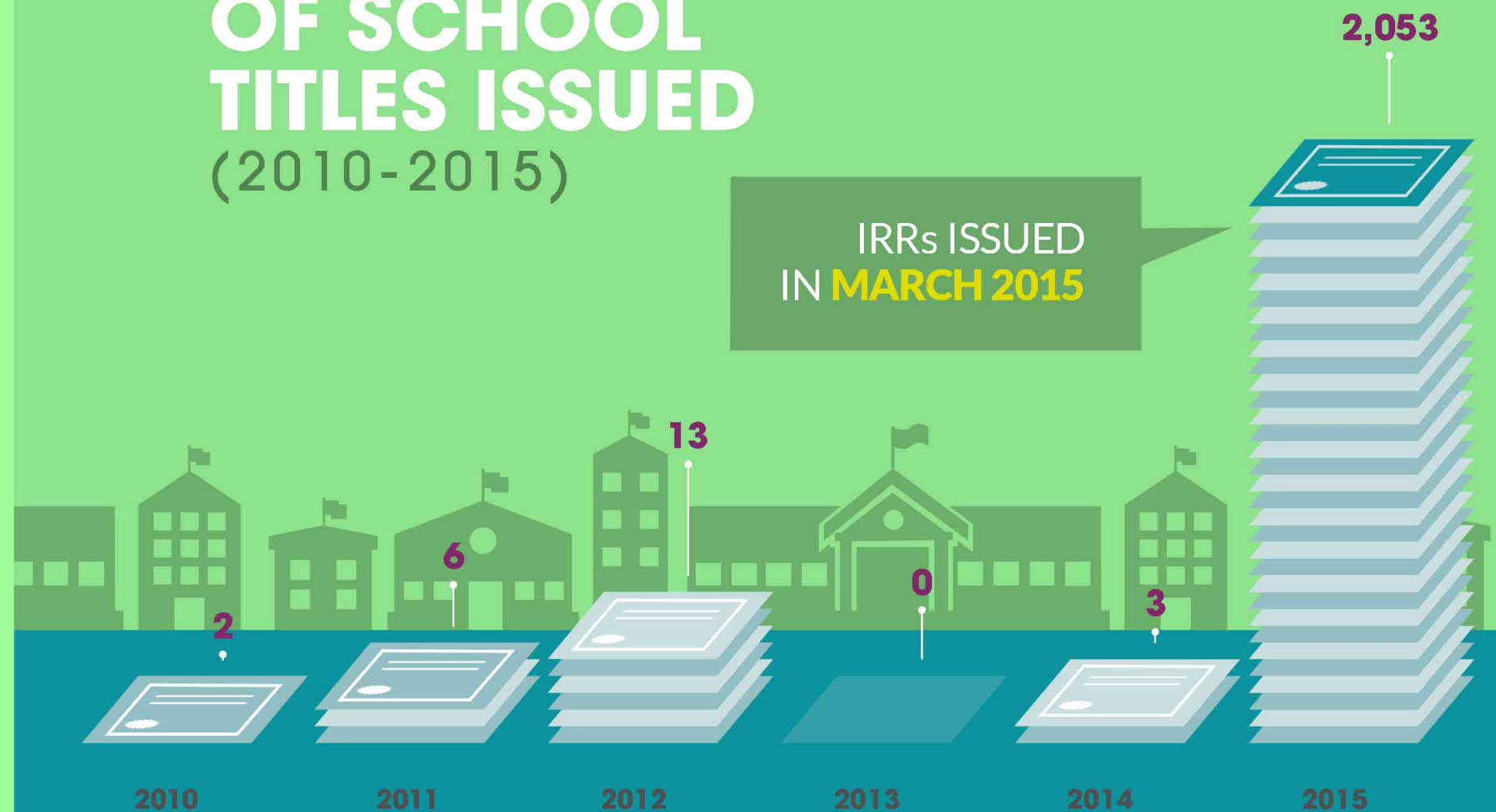
BREAKTHROUGH STRATEGY



In January 2014, Coalitions for Change (CfC) made the strategic decision to shift strategies to break the impasse. Instead of working to introduce a set of comprehensive rules for all government agencies, CfC shifted to an agency-specific approach. With this strategy determined, CfC identified a government agency that is committed to the reform and with a discrete set of untitled parcels.⁶ After a series of meetings and consultations, CfC established a partnership with the Department of Education (DepEd) in January 2014. Using the RFP provision, the combined technical work and judicious use of political networks of CfC and DepEd yielded a set of new rules for public school titling issued on March 4, 2015.⁷

This new DepEd rules unleashed a flood of titles. From an average of four titles per year, over 2,000 public schools were titled in 2015 alone.

NUMBER OF SCHOOL TITLES ISSUED (2010-2015)



⁶ For the story on how CfC helped issue rules for titling of school site, refer to <http://asiafoundation.org/publication/coalitions-change-helps-title-public-school-sites/>

⁷ Guidelines for the Processing and Issuance of Special Patents for Public School Sites under Republic Act 10023, DENR Department Administrative Order 2015-01

SCALING THE REFORM



Given the positive results on the titling of DepEd school sites, CfC and the DENR's Land Management Bureau (LMB) set their sights on an ambitious effort to introduce the rules in creating an administrative titling process for all government lands in May 2015.

By November 2015, the draft rules were presented to the DENR Policy Technical Working Group (PTWG), which was tasked to review environmental and natural resource policies.⁸

In December 2015, the draft rules were presented to the DENR Executive Committee,⁹ responsible for the review of policies endorsed by the PTWG and other policies classified as urgent.

While the rule-making process was making good progress, the May 2016 Presidential elections posed a major concern. Many in government service, particularly political appointees, focused on the electoral campaign. It was critical for CfC to ensure that the rules were issued before the May elections. LMB and CfC continued discussions with allies and clarified technical issues for the administrative rules before the change in administration.

By February 2016, the DENR Secretary reviewed the draft rules and requested the addition of safeguards against potential wayward government officials who may use the titling rules for personal gain. The LMB and CfC were swift to address the Secretary's concerns, revising the draft for

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review of the DENR Executive Committee in March 2016.

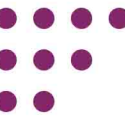
Unfortunately, the review was overtaken by the May 2016 elections, and it seemed that all the efforts of reform partners and CfC were wasted. However, the leadership of LMB continued to pursue approvals for the implementing rules. They met with the DENR Secretary and other stakeholders in late June.

The perseverance of champions in the Land Management Bureau, with support from Coalitions for Change, bore fruit when DENR Secretary Paje issued the rules for titling of government sites on the last day of the Aquino Administration.¹⁰

⁸ DENR PTWG is composed of various DENR bureaus and attached agencies representatives, such as the Ecosystems Research and Development Bureau (ERDB), Land Management Bureau (LMB), Mines and Geosciences Bureau (MGB), Biodiversity Management Bureau (BMB), Forest Management Bureau (FMB), Environmental Management Bureau (EMB), Office of the Undersecretaries, Services, Divisions, and concerned attached agencies.

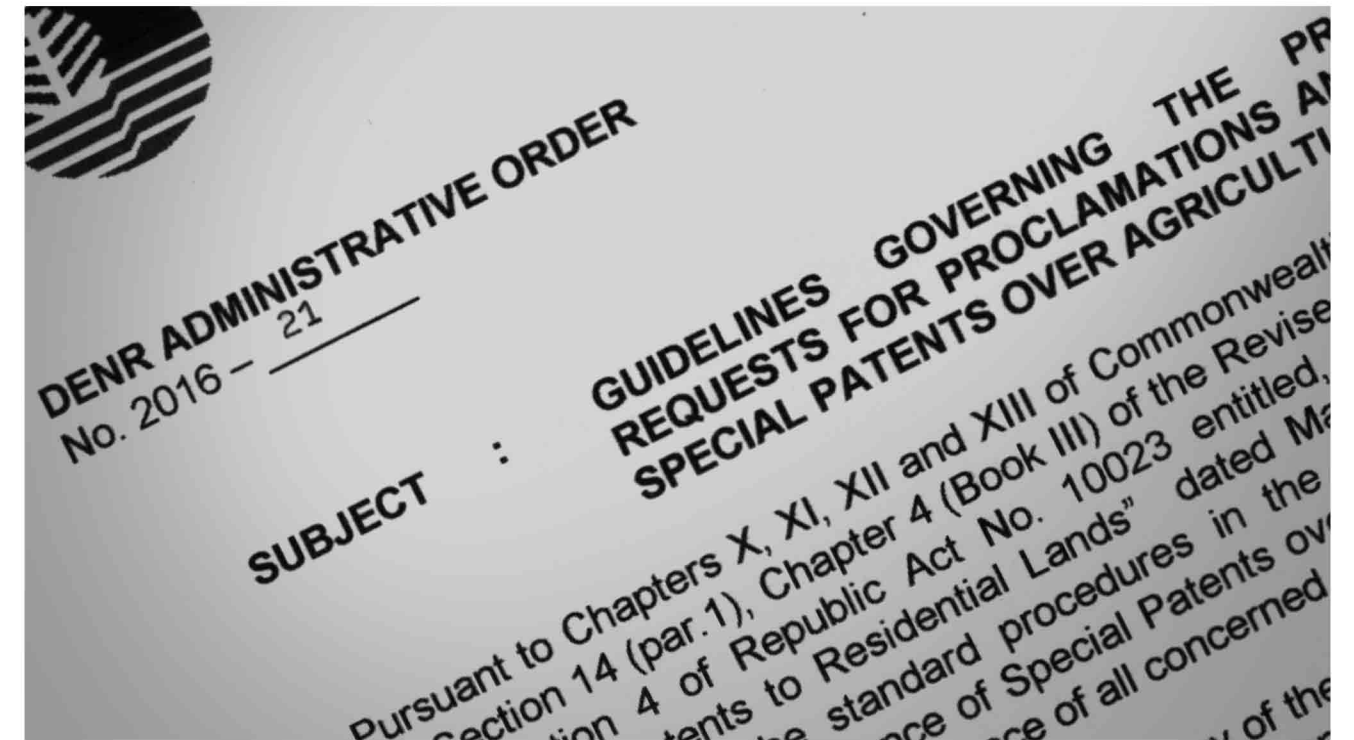
⁹ The Executive Committee is composed of the DENR Secretary, Undersecretaries, Assistant Secretaries, and Bureaus and Services Directors.

¹⁰ DENR Department Administrative Order No. 2016-21, June 30, 2016, "Guidelines Governing the Processing of Requests for Proclamations and Issuance of Special Patents Over Agricultural Lands"



The NEW RULES

- Provide streamlined procedures and requirements in the processing of requests for Proclamations and Issuance of Special Patents for various authorized purposes
- Limit the purposes for the issuance of Special Patents into public uses/purposes and those stated in the law only to:
 - a) charitable or other similar purposes run or administered by the government or any of its branches and instrumentalities
 - b) public cemeteries, municipal halls, public plazas, or parks and other government institutions for public use or public purpose
- Clarify which agencies can be awarded a Special Patent:
 - a) Republic of the Philippines, its agencies, branches, and instrumentalities
 - b) local governments such as provinces, cities, and municipalities
- Emphasize the limitations and restrictions on encumbrance, alienation, or disposition of the lands covered by Special Patent.



The new rules are expected to facilitate the titling of all government occupied parcels. More importantly, properly titled government lands can significantly help the government invest confidently in their own land assets and improve the services they provide to the public. Public-private partnerships and joint ventures can now proceed smoothly and swiftly with these secure titles, contributing to the local and national economic growth.

In addition to the developmental impact of titling, the process undertaken by Coalitions

for Change holds some potentially important lessons for development agencies and professionals. It is clear that we operate in a VUCA – volatile, uncertain, complex, ambiguous world.¹¹ Coalitions for Change was designed with the capability to maintain focus on transformational reforms, yet have the flexibility to adjust and revise strategies based on rapidly changing circumstances. In this case, the project worked as intended.

¹¹ https://en.wikipedia.org/wiki/Volatility,_uncertainty,_complexity_and_ambiguity

FOR MORE INFORMATION

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