



# RESIDENTIAL FREE PATENT BILL

## *EXECUTIVE SUMMARY*

## INTRODUCTION

The proposed bill, which may be called the Residential Free Patent Bill, aims to provide residential landowners an easier and more affordable method to title their lands.

Considering that around 70% of the remaining unregistered land parcels in the country are residential lands, the re-enactment and improvement of residential free patent will expedite mass titling of lands and will in turn create economic growth.

## PROBLEM

A title provides its holder the proof of ownership over the land. It gives the owner secure property rights; facilitates transactions in land; and enables the owner to use it as collateral for loans.

Despite the perceived benefits of a title, about 46% of the 24.2 million land parcels in the Philippines remain untitled. Of this, an estimated 70% or 7.8 million land parcels are residential.

## RESIDENTIAL TITLING PROCESSES

There are two methods available to title and register a land. One is judicial in nature, while the other one is administrative.

The judicial proceeding or the confirmation of an imperfect or incomplete title is a mode of acquiring residential lands by acquisitive prescription through open, continuous, exclusive and notorious possession of thirty years.

Judicial confirmation of an imperfect title is expensive to landowners. The process requires an average of PhP100,000.00 to complete. The amount includes professional fees for surveying, acceptance fees, appearance fees and other costs like publication, postings, procurement of witnesses and payments of filing fees attendant to the proceedings. More so, said proceedings will at least take 18 months to complete. In case of an opposition or appeal, the entire process can last for years, and in some instances, even decades.

The administrative procedure for titling residential lands is the sales patent application. In this procedure, the applicant buys the land through bidding, where he or she should outbid the others in order to be the successful bidder. In such a case, the occupant of the land does not have the preferential right over the property.



Under some conditions, Republic Act 730 – through the miscellaneous sales patent application – allows the sale of public land parcels not more than 1000 m<sup>2</sup> without the need for bidding. It is still, however, subject to appraisal.

Obtaining titles through the administrative procedure is uncertain since there's a bureaucratic process of determining the sales price and the lot may be subject to bidding. The uncertainty of not knowing how much the land costs prevents applicants from using this process as a means of securing title to their lands.

## RESULT

The current methods of titling residential lands are not ideal modes for mass titling of residential lands. For the past four years, only an average of 1,200 decrees of registration were issued by LRA for registration of confirmed titles, and an average of 3,200 sales patents have been issued by DENR, which includes not only residential but other types of lands, i.e. commercial and industrial lands. On the other hand, an average of 100,000 free patents have been issued each year. Free patents, which is the administrative legalization of titles without the need to pay to the government the value of the land are however only applicable for agricultural lands.

Assuming that each year 1,000 titles are issued by the court and 4,000 patents are issued by DENR, it will take 1,300 years to title all the 7.8 million residential land parcels.

## CONSEQUENCES

The current situation provides a number of negative impacts:

1. Land parcels with only tax declarations as proof of ownership and not titles are vulnerable to land grabbing and fake titling.
2. Residential homeowners are unable to borrow from banks using their residences as collateral, crimping the mortgage market.
3. Homeowners are unable to sell or even pass on ownership to their heirs except through uncertain legal assignments, increasing the likelihood of family and social conflicts to occur.
4. Since residential land cannot be freely bought and sold, urban planning and development is hampered.
5. The supply of land in the land market is restricted, affecting land developers and the like.
6. The value of these lands remain low, reducing the tax take by the government from these lands.

## RECOMMENDED SOLUTION



It is therefore recommended to pass an enabling law that will grant free patent to residential landowners.

Free patent is in accordance with the Constitution and the Civil Code. In fact, there has already been a law, Batas Pambansa Bilang 223 granting free patent to residential lands, except that it expired in 1987 and was restricted to fifth and sixth class municipalities.

### FEATURES OF THE PROPOSED BILL

The most important feature of the proposed policy reform is *to provide a means to title residential lands through administrative proceeding by **extending the grant of free patent to residential lands in all municipalities and cities, given certain conditions.*** By free patent, residential homeowners will be able to acquire title through an administrative, quasi-judicial process without a need for payment to the government.

Another important feature is the removal of restriction on encumbrance on the title. This allows the property to be transacted immediately upon titling.

### BENEFITS

The Residential Free Patent Bill, which enables an efficient and effective way to title residential land parcels through the grant of free patent can boost economic growth and development.

Through it, as many as 7.8 million untitled residential parcels can be brought to the formal market. Thirty-nine (39) million Filipinos are expected to benefit from the security of tenure that a registered land provides.

The bill can benefit the banking sector from the prospect of having more borrowers with more secure collateral. Moreover, the access to credit in banking and other financial institutions enables landowners to acquire capital for entrepreneurial activities, as well as for investments in housing. With lands already registered and entered in the formal system, developers would then find it easier to acquire and consolidate these lands for development. These increased investment activities raises the employment opportunities for Filipinos.

Through the removal of restrictions, the lands can be entered into formal transactions immediately. The land can be mortgaged or sold without unnecessarily waiting for five years that can put the land to its best use.

Protecting and upholding secure property rights encourages landowners to invest more. By having more titled lands, economic activities increase contributing positively to growth and development.