

A market without the ‘right’ property rights

Ho Chi Minh City, Vietnam’s newly-emerged private real estate market

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Abstract

While Vietnam’s reforms provided some of the weakest legal private property rights amongst the transition countries, cities like Ho Chi Minh City have booming domestic real estate markets. Interestingly, while most properties in 2001 did not have legal title, those on the market did advertise a variety of property rights claims. Employing a hedonic price model to analyse the pattern of prices at which sellers offer properties in Ho Chi Minh City, this study examines how this market values property rights. The findings show that multiple forms of property rights, enforced by highly decentralized state institutions, are operational in this market. Furthermore, legal title itself is not the most valuable form of property right. These findings suggest that the value of property rights emanates from where it is enforced within the particular institutional context of a market.

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1. Introduction

Vietnam's transition is a beguiling case amongst the transition economies. Although it did not implement the conventional set of institutional reforms that is supposed to jumpstart a market economy, Vietnam has experienced some of the most rapid economic growth of all the transition countries since it began its reforms in 1986. In fact, organizations like the IMF and the Heritage Foundation rank Vietnam near the bottom of all transition countries in terms of the institutional development appropriate for a market economy (IMF, 2000; Heritage Foundation, 2002). Vietnam has been especially recalcitrant in developing the institution of legal, private property rights which has been thought of as one of the pillars of a market economy. These facts beg a reconsideration of property rights and how they support a market economy.

One could argue that Vietnam's rapid economic growth is not due to successful transition to a market economy but primarily attributable to the fact it was an agriculturally based economy at the onset of transition. That is, the startling growth rates may be more a function of their industrialization than marketization. However, in this debate, observing aggregate growth rate figures such as GDP will not uncover whether these countries have actually developed markets. Rather, for academic and policy interest it is important to look at the structure and mechanics of specific private sectors in their economy that have experienced rapid growth. The key question is whether private markets have actually developed in these sectors even though certain fundamental institutions appear to be missing.

Vietnam's weak development of legal property rights is readily apparent in the land and real estate sector where the state still owns all land. Transferable land use rights were promulgated in the 1993 Land Law but as of 2001, the vast majority of private titles in urban areas had still not been distributed by the state¹ (Dang and Palmkvist, 2001). Theoretically, then, the state could evict land users and potential property buyers could risk unsuccessful transfer of ownership from current users. Such an insecure property rights situation should inhibit transactions and investment in land. But, instead, what we have witnessed, especially in urban centres such as Ho Chi Minh City, is the phenomenon of thriving private real estate markets. In fact, the majority of annual housing supply has been provided by the private sector since at least 1994 (HCMC, 1997). This paper investigates the private housing market of Ho Chi Minh City (HCMC) in order to contribute to the current debate

¹ The Sweden International Development Agency, which has been engaged in a land administration reform programme in Vietnam since 1995, estimated that only 5 percent of the nation's urban land parcels had land tenure certificates by the end of year 2000. In interviews with Ho Chi Minh City's Department of Land and Housing in June 2001, officials reported approximately 25 percent of HCMC's urban parcels had received their Building Ownership and Land Use Certificate (BOLUC).

on the nature and importance of property rights in supporting the transition to a market economy.

One key question about this newly-emerged market is how private suppliers can invest in and offer property for sale in such a high risk economic environment. The supply side of HCMC's private residential real estate market generally consists of two kinds of suppliers. While the number and productivity of private real estate development firms has been growing rapidly, approximately 70 percent of the private supply comes through individual household home sellers (JBIC, 1999). Typically, these sellers have either developed one or a few units or are simply selling the unit they currently occupy in order to reap capital gains and move elsewhere. Sellers usually list their property with local landbrokers, in real estate centres, or in real estate sections of newspapers.

In Ho Chi Minh City, several newspapers were selling classified real estate advertisements as early as 1993. These listings offer insight into how HCMC's market values property. Despite the incomplete institution of legal property rights, people in these markets *are* offering real estate with various forms of property rights. Some sellers advertise that their property has 'giay to hop le' literally translated 'legal papers' and/or 'chu quyen tu nhan', translated 'house ownership'. 'Legal papers' refers to the possession of documents that can be used to apply for title ownership to a property. These 'legal papers' can be processed through various levels of government with the payment of fees to obtain 'house ownership' or legal title to the property, also known as the Building Ownership and Land Use Certificate (BOLUC).

The claim to private property rights is surprising in a city whose government has not yet disbursed titles to the majority of the urban households and with limited access to court enforcement of those rights. But, even more of a puzzle in these advertisements is that, while some claim to have either legal papers or full title ownership, others claim to have both. Why would they claim both? The conventional theory is that once the legal papers are processed and title is obtained, the previous legal papers would be irrelevant because what should give one secure property rights is the legal title (Dale and McLaughlin, 1999). Are these ads from a marginal group of people who simply do not understand how property rights work and how they relate to property values? Or is it that property rights are conceived of and operationalized in a manner different than the conventional one?

This paper empirically analyses the real estate listings in order to see how this market values these various forms of property rights. The findings shed light on how HCMC's real estate market functions without the 'right' property rights institutions. First the paper will outline the theoretical and policy debates in the literature about the role of property rights in a market economy. Then, it will discuss how those issues apply in the institutional context of HCMC. Next, it will overview the study's research design and the hedonic price model used to find how significant the various forms of property rights are to property values. Finally, the paper will

discuss the findings and conclude with the implications they have for the current debate on how to build institutions that support a market economy.

2. Literature review

From the earliest literature, property rights have been integral to market theory. The development of legal property rights as a scientific form of claims and obligations enforced by the state helped transform land into a factor of production and a commodity (Hohfeld, 1923). The early western legal literature had established that the basis for one's entitlement to property ownership was labour and occupancy (Locke, 1690; Blackstone, 1766). Therefore, in the market economy, the commodity of land rights is purchased by the people who can pay the most because if a bid is based on estimates of how much profit can be made from the land, the highest bidder is the one who can most efficiently capitalize on the asset (Alonso, 1964; Mills, 1972; Muth, 1969). For this productive market activity to occur, property rights require conditions for excluding others' control over one's property. What this has led to in the west is the development of a whole institutional apparatus that helps defend one's legal property right. Institutions such as title insurance, property lawyers and real estate brokers make sure title is clear before buyers and sellers transact, primarily because mortgage finance institutions require it. The clarity of property rights are usually a negligible consideration and any properties with irregular titles would be severely disabled on the market.

However, in developing countries, while this ideal property rights system might exist formally on paper, it is not the sole system within which the majority of the urban population conducts property transactions. Often, operating in tandem with the formal legal system, is a para-legal system of rights which might integrate traditional concepts of property rights and/or which is recognized through new institutional mechanisms (Doebele, 1983; Payne, 1997). However, since such property rights will not be recognized by formal banks that could finance improvements to the asset and since the confusion in clarity of title of ownership dampens property values and slows down transactions (de Soto, 2000; Annez and Wheaton, 1984; Farvacque and MacAuslan, 1992), the initial reforms in transition economies heavily emphasized legal property rights reforms (World Bank, 1996). In the area of developing real estate markets, these reforms usually emphasized three components: legal amendments, property title registration systems and court resolution of disputes (UNECE, 1997). It is apparent from these policy prescriptions that the focus is on using legal enforcement to bring about functional property rights. This of course presupposes the widespread rule of law.

Some scholars have questioned the effectiveness and appropriateness of policy reforms focused primarily on distributing legal title through regularization projects. Many studies of housing markets in developing countries have investigated how

transactions can occur with informal property rights, some arguing that informality provides more affordable housing (Payne, 1997; Sanyal, 1996; Pamuk, 1996). A recently active area of research debates the evidence over legal title's ability to increase access to credit for the urban poor (Payne, 2001; Galiani and Schargrodsky, 2003; Field, 2004). Other studies have shown that formal, legal title does increase the value of housing in developing countries (Dowall and Leaf, 1991; Jimenez, 1984; Lanjouw and Levy, 2002).² Generally, though, while these studies show how property rights can influence property values, they continue to conceive of property rights as existing in binary classes: formal or informal. Some question whether this dichotomy between the 'formal' and 'informal' is accurate or whether instead there is one market with shades of conformity to the law and/or multiple forms of tenure co-existing (Polenske and Razzaz, 1992; Durand-Lasserve and Royston, 2002).

Often, underlying the criticism of title regularization programmes, is the idea that they seem to be importing legal institutions from the west such as individual legal property rights and dispute resolution through courts which may not be effective or culturally appropriate in different contexts. Scholars have been documenting alternative systems as in the cases of collection action (Dawes, 1975; Ostrom, 1990) where a person may derive utility from joint-benefits and people may be able to cooperate for greater self-benefit as well as greater social benefit through negotiation (West, 1988; Rose, 1994).³ But other legal scholars emphasize that, while people can make all sorts of claims about ownership, there is only an actual right if it is ultimately recognized and upheld by the state whether through courts or some other means. Therefore, to study multiple property rights, we need to see whose rights are ultimately enforced in the case of disputes (Cole and Grossman, 2002).

The transition economies are ideal cases in which to examine the relationship between property rights institutions and markets because, while transition countries were all pursuing a market economy, there has been wide variation in the extent to which they developed a legal property rights system. While countries such as Poland, Hungary and the Czech Republic implemented the conventional neo-liberal model of property rights supported by a formal legal system, Vietnam's and China's transitions have been characterized by interventionist states which exercise discretion in market transactions rather than defer to legal boundaries.

² A more theoretical line of research has shown that different types of formal title systems such as the Australian title registration system versus the recording system used in the US can affect property values (Miceli, Munneke, Sirmans, and Turnbull, 2002; Arranada, 2003).

³ This argument about the importance of institutional context and variation has led to a wave of 'new institutionalist' research in a variety of disciplines. Although new institutional economics (Hart, 1995; Williamson, 1996, North, 1991), economic sociology (Granovetter, 1985; Fligstein, 2001), and political science of institutions (Hall and Soskice, 2001) frame widely disparate discourses, one common characteristic they do share is that they acknowledge that institutions such as property rights, instead of being scientific or natural, are socially negotiated and so varieties of forms can support a market economy.

Gillespie writes of Vietnam's 'marginalized legal system where vague and often irrelevant positive law only rarely touches a social order comprised of networks of interpersonal relationships,' (Gillespie, 1999: p. 130). Other scholars of Vietnam's transition attest to the flexible and decentralized nature of the new market institutions coupled with a strong state (Fforde and de Vylder, 1996; Gainsborough, 2002). They argue that this institutional flexibility is part of the reason why these countries have been able to grow so rapidly.⁴ Others balk at this interpretation and warn that this transition path has set up a flawed institutional framework that will eventually reach its limits (Lo and Tian, 2002).

For all this interest in property rights and transition economies, there has been very little empirical work done on the role of legal title in transitional property markets. Recent literature has described China's transition to private property markets which is quite similar to Vietnam's transition in its household registration system, highly decentralized governance of land and system of land use rights instead of outright private ownership (Zhu, 1999; Li, 1999). Li (1996) did apply a hedonic price model to Shanghai's housing market which showed that it functions like a private real estate market but did not analyse the effect of various forms of title.

Empirical studies have examined the role of property rights in other markets in transition countries. Johnson, McMillan and Woodruff (2002) found that property rights security affected the reinvestment rates of 1400 firms in five European transition economies. Their indicator of property rights was an index which additively measured how many kinds of extra-legal payments the firms made to government in the course of their operations. One interesting thing to note is that this implies that property rights are not a binary condition but on a continuum. They also found that the availability of court enforcement of contracts ended up not being a significant variable which suggests that people do not rely on courts to secure their property rights. In another study of Vietnam, McMillan and Woodruff (1999) found that manufacturing firms use written contracts with their suppliers although they were not enforceable by courts. The firms relied on other ways to mitigate their transaction risks such as information obtained through social networks and through relational contracting.

These studies begin to suggest that in transition, property rights are variable and that their enforcement does not come primarily through courts. However, in these studies of industrial firms, property rights and contracts were enforced

⁴ This debate about Asian and European transition paths is reminiscent of the older debates around the East Asian developmental states. Instead of an adversarial relationship between government and the private sector governed by a western-style legal system to protect firms from an expropriating state and other transacting parties, these states played an active role in the private sector. While an adversarial system can minimize risks, it may not bring about the realization of potential gains of a more collaborative model which again echoes the critical legal literature arguments mentioned earlier. Some scholars question in fact whether the free market model is a myth and argue that the central government has usually played critical and direct roles in protecting and growing domestic markets (Amsden, 1989).

through the potential loss of future business with current trading partners and loss of business reputation, something which does not apply to our case. One-time real estate sales between non-professional buyers and sellers who are strangers cannot rely on these mechanisms. So how else might the players in HCMC's real estate market be enforcing property rights and contracts? And how much difference does possessing legal title make in this property market?

3. The institutional context: Title versus legal papers

This study aims to contribute to the literature by providing an empirical study of how legal title influences transitional property markets. The literature suggests that it is important to examine closely the enforcement mechanisms of various property claims to see if they are actual property rights. Previous studies of Vietnam and other transition countries suggest that property rights are not enforced primarily through courts.

The key issue which this study examines is how the housing market values various forms of property rights claims advertised in HCMC. Instead of looking for a binary condition, we empirically examine the value of several kinds of property rights. Urban housing title was introduced in 1994 but by 2001 less than 25 percent of houses had titles. To understand better how much title might be valued in HCMC relative to other forms of property rights, it is necessary to understand some key points about the process of getting legal title and what value lesser claims such as 'legal papers' might provide.

Vietnam changed its constitution so that people can now own houses. While only the state can own land, a private person or entity can also own use rights to a parcel of land for a specific period of time. In 1994 the state introduced the 'pink certificate' for houses in urban areas, officially known as the Building Ownership and Land Use Certificate (BOLUC) which combines home ownership with the land use right into one legal document.⁵ The BOLUC is the equivalent to having a fully titled house. The reasons why so few properties have the BOLUC are many.

Obtaining a BOLUC is complicated. Depending on the occupancy date of the owner, certain legal documents, listed in Table 1, have been identified as being acceptable in claiming ownership when applying for a BOLUC (JBIC, 1999). However, although property owners might have had a relatively long period of tenancy, they

⁵ The certificate for ownership of land use rights in non-urban areas is commonly referred to as the 'red certificate'. This little booklet with a red cover outlines the boundaries of the parcel surveyed by officials and lists other information about the property. Virtually all land parcels on HCMC's periphery have been issued red certificates. The backlog of properties without BOLUCs was further exacerbated in 1997 when HCMC incorporated large portions of formally agricultural land on the periphery into five new urban districts. Now, homeowners with red certificates are supposed to pay a land use change levy to gain the pink certificate or BOLUC.

Table 1. Legal papers needed to apply for title (the Building Ownership and Land Use Certificate) in Ho Chi Minh City, Vietnam 2001

1) Documents issued or certified before April 30, 1975

- Written promise certifying the house area on the land
- Building certificate or architecture certificate issued by the old regime government, i.e., chairman of Saigon city or other provinces (now belonging to HCMC)
- Purchase and sale documents or the documents on house transfer certified by the old regime government
- Inheritance document and house sharing document registered on land certificate and liquidated

2) Documents issued or certified from April 30, 1975 to July 5, 1994

- Decision or permit issued by the City's People's Committee, Civil Construction Committee, Department of Construction, Department of Land and Housing and the District People's Committee to allow the ownership of building and land use rights
- Documents of 'house authorization' and 'house ownership authorization' issued by the Department of Housing or the District People's Committee including the allowance of ownership of authorized people and the registered transfer of ownership

3) Documents issued and certified since July 5, 1994

- Decision or certificate issued by the District People's Committee allowing building ownership and land use rights with respect to the families in the districts formerly outside urban planning areas
- Construction permit and former building ownership document (use of farming land area) or regular land use document in accordance with the Guideline No. 647-CV/DC dated May 31, 1995 by the General Department of Land Administration (use of vacant land area)

4) Documents made, issued, and certified before and after April 30, 1975

- Testament or legacy sharing paper of housing made at state notary office or in authorized administrative bodies
- Effective judgment or decision of the court
- Housing transfer contract made in the state notary office of the District People's Committee with registration fee paid and registered in the Department of Land and Housing or the district's urban management office

Source: JBIC, 1999.

might not have these particular legal papers. Obtaining other documentary evidence of occupancy is then necessary to apply for the BOLUC which can be a major feat especially due to variations in accurate record-keeping by districts and wards. And the regulations do not specify what to do in cases where one cannot obtain these legal papers. Therefore, a house's lack of title or legal papers could be a reflection of this bureaucratic limbo rather than the household's tenancy or the quality of the property itself.⁶

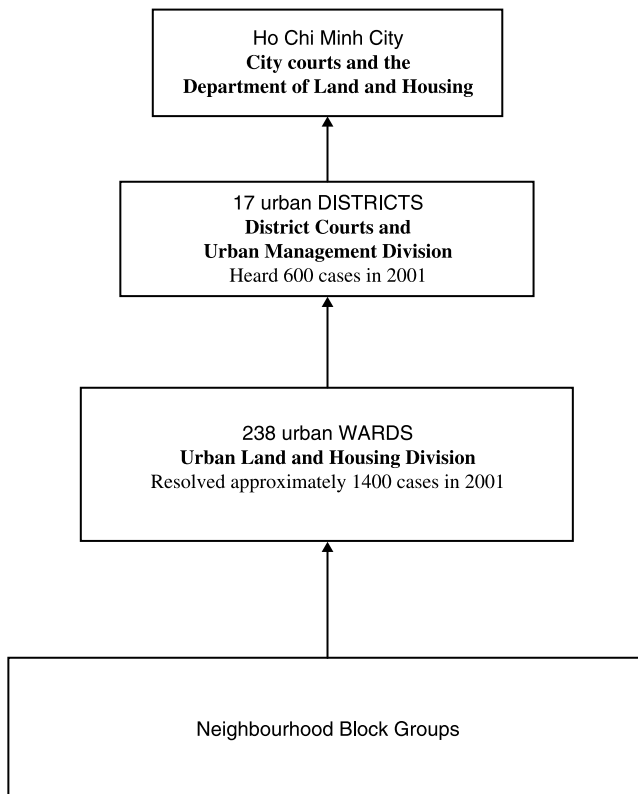
However, even with legal papers, certificates will not be given if there are unresolved disputes over ownership. The legal literature makes the point that property claims are only truly property rights if they are enforced by the state or some other social institution and so the true test of a claim being a right is shown by the way disputes are resolved. Conventional policy reformers assume that title disputes should be resolved and enforced by courts. However, in the Vietnamese context the majority of land and housing disputes are handled by neighbourhood communities and local bureaucrats (see Figure 1). The first and lowest institution for handling many kinds of disputes is the residential block committee, the *ton*. Outsiders are often surprised by the extent to which neighbours in Vietnam can weigh in on what would be deemed private household affairs in other contexts. But, the attitude is to resolve disputes as quickly as possible and locally through arbitration in order to avoid more official involvement of higher levels of government. If the *ton* cannot resolve a dispute, the ward may get involved.

There are 238 urban wards in HCMC with approximately 4,000 households in each ward. These local bureaucracies have officials who deal exclusively with land and housing issues in their ward. Ward officials estimate that 30–50 percent of all disputes they hear concern land and housing issues and that they can resolve roughly 70 percent of them. One ward president who presides over a ward on the urban fringe explained that the wards not only use their own records to check ownership but also often know who the people are and their circumstances because they attend each other's weddings, anniversaries and memorial services. Unresolved disputes may gain a hearing in the district government's land and housing departments and civil courts. District courts in HCMC hear about 600 housing cases a year and approximately one-third of these are referred on appeal to city courts taking an average of 1–3 years to be resolved (Gillespie, 2001). So, property rights enforcement occurs in a variety of state institutions and ranges from negotiation to increasingly formal legal means which could also be an explanation for the delay in BOLUC distribution. It also implies that a property that does have the BOLUC presents less risk of title disputes for which a buyer might be willing to pay more.

If one's property has the proper legal documents and does not have ownership or boundary disputes, one can most easily pursue the process of obtaining the

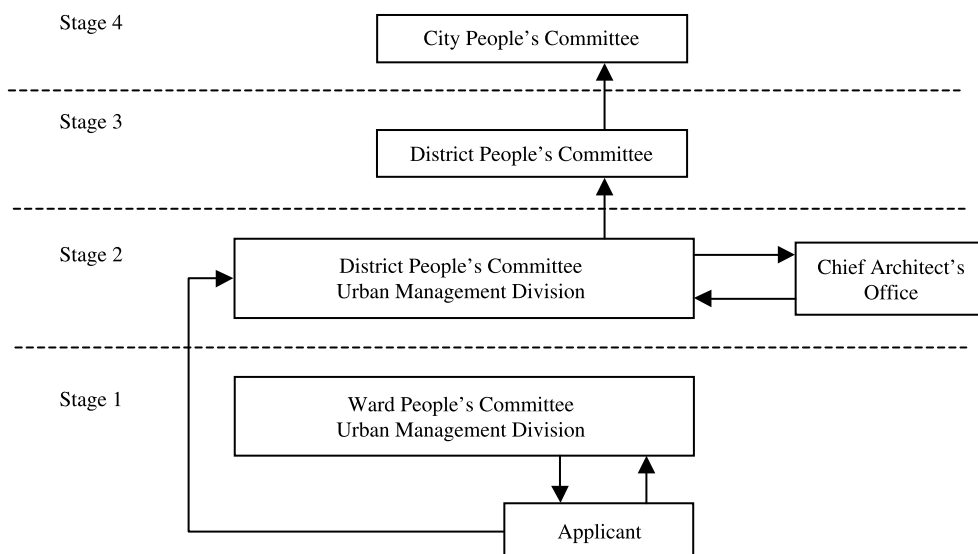
⁶ Since the date of this study, the city has been implementing Decision 22, which simplified the process somewhat for obtaining the BOLUC for properties that did not have these papers.

Figure 1. Layers of state institutions that enforce property rights in HCMC, 2001



BOLUC. As diagrammed in Figure 2, policy reforms in 2000 decentralized BOLUC decision-making to the district government (JBIC, 1999). This is one example of how HCMC differs from other Vietnamese cities in its attempts to streamline bureaucratic procedures for the private sector. However, as with the wards, districts will vary in how readily they will issue the BOLUC. And with greater decentralization of land use authority has come instances of greater corruption so that more entrepreneurial district governments might irregularly enforce the conversion of land uses and BOLUC issuance to further their own investment strategies (see footnote 13). In any case, the rate of BOLUC issuance is therefore also related to the capacity and objectives of the district government, factors independent of a property's characteristics.

There are also several fees involved in obtaining a BOLUC. The land administration and cadastral survey fees are fairly nominal. However, the BOLUC registration fee is 2 percent of the official land price. While there is still not an annual

Figure 2. The process of obtaining title in HCMC

Stage 1: The applicant submits two applications and related documents (if any) to the Ward People's Committee. The Ward People's Committee certifies that the applicant is the builder, developer, or occupant of the house and land. If the ward is not sure, it can certify the record of land use by the applicant and the absence of disputes.

Stage 2: The applicant submits the application file to the District's urban management office. The file should include:

- 1) two applications;
 - 2) one original and one copy of land and housing related documents (if any);
 - 3) two existing maps and location maps prepared by licensed person or organizations; and
 - 4) extract map prepared by a division in the Department of Land and Housing.
- After the submission of the application, the Division will do research to ascertain if the house is owned or managed by the State. If it is, the Division refuses the application.
 - If the application is not refused, the Division should place a notice in *Saigon Giai Phong* three times and post notices in the ward office for 30 days. If any disputes arise, the Division will postpone the process until the dispute is resolved by the courts.
 - Concurrently, the Division evaluates the location and existing land use map and compares it to the land use plan of the city, and specifies parts of house and land which are not in conformity with the plan. If it conflicts with the plan, the application will not be accepted.
 - In areas of the city where the land use plan has not yet been established, the Division will send copies of maps to the Chief Architect's Office for opinions on planning. If there is no response in 20 days, it is considered that there are no controversies with the urban plan.
 - The Division submits the completed application to the District People's Committee for certification and it is filed in the Department of Land and Housing.

Stage 3: The Department of Land and Housing adjusts its land maps in accordance with the plan and coordinates with the tax authority to calculate tax and other payments that the applicant must pay in accordance with regulations.

Stage 4: The Department of Land and Housing prepares the Building Ownership and Land Use Rights Certificate (BOLUC) and submits it to the City People's Committee for approval and signature.

property tax in Vietnam, there are tax liabilities that are incurred when applying for the BOLUC. Properties that had their agricultural land use certificate (commonly known as the red certificate) would need to pay a land use change levy to convert it into the BOLUC's pink certificate. At first this tax was exorbitant but the state reduced the tax and offers a ten-year deferred payment schedule in order to encourage households to register for the title. Paying all of these costs out of pocket might be another reason why households do not pursue the BOLUC especially if they do not intend to sell their property and if their tenure is secure through long-term occupancy and compliance with land use plans. Other commonly cited reasons for the widespread slow response to registration is that some fear that the size of their land parcel will be reduced when the property is re-surveyed while others do not want to deal with the long bureaucratic procedures (VIR, 1999).

As mentioned earlier, most houses still do not have the BOLUC at the time of transaction. Some sellers and buyers may prefer to transact completely outside the official system so that the seller might avoid the transfer of ownership tax, which can be as high as 20 percent of the official land price, and so that the buyer can continue to avoid the BOLUC registration fees. Another common scenario is that the house is sold without a BOLUC but the seller does pay the transfer tax and the ward level of government or some other official body notarizes the transaction. While this notarization does not award title to the buyer, it is another 'legal paper' that the buyer can use towards obtaining the BOLUC at a later time.⁷ If these notarized documents of transfers provide a continuous lineage to one of the legally recognized documents outlined in Table 1, BOLUC applications can be as easily processed as if the applicant's name were on the original title. So, in such cases, a household does not need to wait for the issuance of the BOLUC to buy with rights almost as secure as with a BOLUC. But the ability to ascertain the validity and sufficiency of the legal papers will vary considerably amongst buyers.

⁷ One thing to understand is the way households interact with government when transacting land and housing in HCMC. Even during the command economy period, the lowest level of government, the Ward People's Committee, tacitly condoned private real estate transactions as long as they did not disturb social order through egregious violations or excessive profit. Still now, some level of government is involved in practically every economic transaction although with varying degrees of intervention. The more expensive and multi-unit housing developments engender greater involvement of higher levels of government such as district, city, and national government, operating through increasingly formal means especially in the case of foreign joint-ventures. But, transactions of individual houses listed by locals for sale to locals in the newspaper usually involve only the ward level of government. These officials use discretion in how stringently they enforce official land use planning, building, and public health regulations especially as urban populations have swollen with reform and it has been impossible to enforce the household registration system. So, residential properties in HCMC are in various states of compliance with formal regulations and documentation, some of which have been officially stamped by ward officials. Before and during transition a norm has developed where by ward level officials have been loosely monitoring and regulating private housing transactions in practical ways rather than involving higher levels of government and formal legislative practices. So, a BOLUC is not needed to transact with government approval and therefore some level of tenure security.

Having the BOLUC, however, does not eliminate the risks faced by buyers. One problem is that BOLUCs are supposed to be issued to properties only after the wards have developed detailed plans and cadastral maps. However, while only 20 percent of the wards had developed detailed plans by 2001, the city and district governments have been issuing BOLUCs anyway. If these titled properties are in the path of public works designated by plans at a later time, they will be expropriated.⁸ Expropriation of land for public works happens everywhere, but happens to a greater scale in HCMC because of the city's rapid expansion and lack of coordination rendering titled property rights relatively less secure as noted by international observers. Another problem is that even if a property has a BOLUC, the buyer may risk unsuccessful transfer of property. Property lawyers interviewed by the author stated that the vast majority of their cases involved helping their clients retrieve money from failed land and housing transfers.⁹ Typical cases involved a seller who had received payment at an agreed sales price but did not change the name on the certificate and then asked for more money to complete the transfer.

In summary, the institutional context of HCMC suggests there might be varieties of property claims operational in the market. Since 1994, the official form of legal title for urban houses is the BOLUC. Having the BOLUC should lower the risk of lingering property disputes and is the most secure form of tenure; therefore the BOLUC should be the most valuable form of property right in HCMC's housing market. Having a BOLUC also means the seller has invested time and money in obtaining the title which should be compensated in the sales price. Certainly, transferring ownership of an existing BOLUC is much easier than attempting to register for a BOLUC for the first time with 'legal papers'.

However, while the government has decreed that every house must have a BOLUC, most properties do not. In some cases a house's lack of title could be a reflection of being caught in a bureaucratic limbo or of the ward or district's limited administrative capacity rather than of the security or the quality of the property itself. Meanwhile, because of the fees and time involved in obtaining the BOLUC and the tax liabilities, some buyers and sellers prefer to transact without it. Others pay the taxes and have the wards notarize the transaction although they have not registered for title. Because property rights are largely enforced at the discretion of lower-level bureaucrats and neighbourhood block groups, a range of property rights forms exist in HCMC. Therefore, in our empirical evidence we should also find that other forms of property claims besides title should be significant in Ho Chi Minh City's housing market.

⁸ Compensation will be higher for those properties that have been issued BOLUCs. On the other hand, some households choose not to register for the BOLUC which clearly defines their property boundaries before these plans are known in order that they might have more room for flexible compensation and property boundaries. This dynamic is a greater factor in the speculative land markets of the new urban districts on the periphery of the city.

⁹ In 2001, while there were 324 lawyers in HCMC, only 6 specialized in property law.

4. Research question and design

The real estate market in Ho Chi Minh City is an important case for the property rights and transition economics literature because we can empirically analyse whether a multiplicity of property rights forms are operational in a market. We can also see what value the market assigns title relative to the other property rights. This study aims to see if possession of legal title affects the price the suppliers can ask in Ho Chi Minh City's housing market and if so, how much.

4.1 Data

The dataset compiled for this study was primarily taken from listings in the real estate section of *Tuoi Tre*, HCMC's leading newspaper. It is a publication of the Youth Union, a powerful organization of the Communist Party of Vietnam. *Tuoi Tre* began a real estate section in 1993 after the Land Law established private transferable land use rights. While in the beginning there were few listings, over the years the number has increased rapidly. In 2001, the Saturday issue typically listed about 250 new properties while in 1997 about 100 were listed. The numbers are even more impressive in light of the fact that real estate is also listed on three other days in the week and that few listings are repeated between issues. While there are some development companies and landbrokers who advertise, the majority of the listings are for sale by owner. Few rentals are listed. Upon checking how easily usable the listings were, field assistants called to enquire about properties and found that listers quite openly discussed their property and the form of tenure they had and would invite callers to come and see the documents and property.

The listings are a fascinating reflection of what is valued in a residential property in Ho Chi Minh City. The kinds of information sellers provide include: the exact address and phone number, the dimensions of the house and land parcel, the number of floors and bedrooms, water, electricity, phone, yard, the number of toilets, proximity to markets and schools, whether it is a good location for commercial activities on the ground floor, and whether the property is in a safe neighbourhood, quiet, and well-ventilated. Many also indicate their property rights status.

However, this source of data also has its drawbacks. We cannot see what the actual transaction prices are or whether they sell at all. Most probably, listed prices will tend to be inflated to allow room for negotiation. The prices may also be higher due to sample bias. The people who can afford to buy a classified advertisement may be selling higher end rather than average properties. If so, one could theorize that property rights are more important for this market segment than lower income households with fewer options. On the other hand, these listers are avoiding landbroker fees and therefore may be able to offer lower prices. So, in the interpretation of the findings, it is important to keep in mind that they apply to this market segment and to compare relative prices rather than absolute prices. Another possible problem is the variation among the sellers in terms of the

expertise and knowledge they have about the market. We attempt to smooth out these biases by taking a large random sample across four years to find variables that are consistently significant. Related to this, it is possible that a seller could possess legal papers or title papers but not have advertised it in the listing. If this were the case the property rights coefficient would understate the effect of property rights on prices. Finally, although a seller may list that they have title, we cannot substantiate their claim through this method. (It was not possible in Vietnam's challenging research environment to use the (outdated) cadasters to verify claims). Still, if the claim is false, the sellers will not be able to maintain the offered price level when the buyer investigates the claim. In any case, the thousands of listings made voluntarily by sellers in HCMC's real estate market provide a rich data source without the problems of survey instruments. What we can find are the sellers' perceptions of what they can ask for in HCMC's real estate market and how property rights influence this. We are assuming supply is responsive to demand because of the large number of competitors and the free entry and exit into the market.

Assistants entered information for the listings from random issues in March/April and September/October for the years 1998–2001 since spring and fall are the busiest times of the year in the market. Only listings which provided the name of the property's ward were entered because socio-demographic variables could be attached to the observations. The Statistical Office of HCMC reparsed the 1999 census data by the city's 238 wards for this study. In the end 2,954 data points were assembled. While many variables were investigated, Table 2 lists the definitions of the variables that were used in the final analysis.

The listed property prices came in two currencies. Prices in the more expensive areas in the centre of town were usually quoted in gold *luongs* while on the urban fringe prices were quoted in millions of *dong*, the Vietnamese paper currency. All prices were converted into Vietnamese *dong* using the current official exchange rate taken from the newspaper for that particular date.

Past hedonic price model studies of real estate have found certain variables consistently significant and large determinants of real estate values so it was important to have data for these variables in order to ensure that there was enough explanatory power in the model. The variable *distance to CBD*, was calculated by first identifying the property's ward among the 238 possible urban wards. A geographical midpoint was inputted in GIS software for each ward's jurisdictional boundaries and then a straight-line distance was calculated from the ward's midpoint to the city's downtown central business district in kilometres. This number was rounded to the nearest whole kilometre. A house's size, specified by *SqmHouse*, is also an important determinant of price. Of the 2,954 listings, all of them either indicated the square metre floor area of the house or the width and length of the land parcel which in the densely built urban Vietnamese context is identical to the footprint of the house. However, only 1,191 of the observations indicated the number of floors in their unit. So, in order to increase the number of observations employed in the model, we found the median number of floors for houses, 2.56,

Table 2. Description of variables

Variable Name	Definition
<i>InPrice</i>	Natural log of the house's listed price in Vietnamese <i>dong</i>
Property rights variables	
<i>Property rights</i>	dummy variable equals 1 if seller advertizes possession of any of the property rights claims below
<i>Legal papers only</i>	dummy variable equals 1 if seller advertizes possession of legal papers and not other forms of property rights
<i>Title only</i>	dummy variable equals 1 if seller advertizes possession of title only
<i>Both</i>	dummy variable equals 1 if seller advertizes possession of both title and legal papers
<i>Title +</i>	dummy variable equals 1 if seller advertizes possession of title only or both title and legal papers
Physical characteristics variables	
<i>SqmHouse</i>	Square metre floor area of house
<i>telephone</i>	dummy variable equals 1 if the listing advertized having a telephone line connection
<i>toilet</i>	dummy variable equals 1 if the listing advertized having an indoor toilet
<i>water</i>	dummy variable equals 1 if the listing advertized water connections
<i>electricity</i>	dummy variable equals 1 if the listing advertized electricity connection
<i>1998</i>	dummy variable equals 1 if the property listed in the year 1998
<i>1999</i>	dummy variable equals 1 if the property listed in the year 1999
<i>2000</i>	dummy variable equals 1 if the property listed in the year 2000
<i>2001</i>	dummy variable equals 1 if the property listed in the year 2001
Neighbourhood effects variables	
<i>House quality high</i>	the percentage of the ward's housing stock of quality type 1, a government indicator concerning building material quality
<i>Education rate high</i>	(total working age population in ward with university, vocational, masters or doctorate degree)/total working age population in ward
Location variables	
<i>Distance to CBD</i>	Straight line distance from the geographic centre of the property's ward to the city centre in kilometres
<i>street</i>	dummy variable equals 1 if the property faces a main street
<i>district</i>	dummy variables were created for each of the city's districts

and entered this number for missing observations and computed the floor area for the house. A house being two and a half stories is typical in Ho Chi Minh City where tube shaped houses will have a ground floor, one full storey, and then a mezzanine level. For the rest of the physical housing characteristic variables, it was assumed that if the listing did not advertise a given characteristic (e.g., street frontage), the property did not have that characteristic.

In examining the descriptive statistics of this dataset in Table 3, we see quite a wide variation in the price of properties. We also find that most properties listed in *Tuoi Tre* newspaper are not located downtown but are on average over 5 kilometres away from the city centre. The majority of properties have water and electricity infrastructure (70.6 percent) but only a minority have indoor telephones and toilets. Most of them are in wards where approximately 25 percent of the housing stock is of high quality. However, these vary significantly and so highlight the importance of location variables.

4.2 Measuring property rights and the hypotheses

The main reason for the interest in this source of data is that property rights claims are made by the sellers. Of the 2,954 observations, 2,109 of the listings claimed some sort of legal property right while 845 claimed none. What is fascinating is the variation in property rights claimed. Of the 2,109, 616 claimed to have title ownership, 689 claimed only to have legal papers, while 805 claimed both legal papers and title ownership. With such numbers it is hard to defend the notion that those who claim both legal paper and title ownership are from a marginal group of uninformed sellers.

From the previous discussion about HCMC's particular institutional context, we saw that it is possible that these various claims can be enforced as actual property rights. Although it appears from these listings that HCMC's private housing market can tolerate and operationalize a range of property rights forms, what will be interesting for the literature is to find whether and how the market values them. The heart of the research question is to find whether any of these property rights claims carry a premium in the market and what their relative importance is.

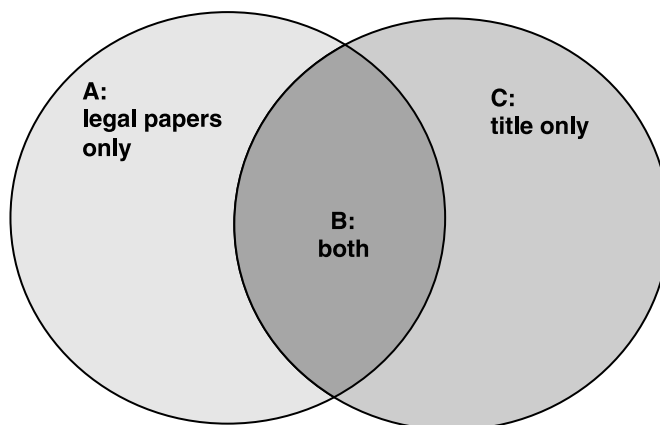
We would hypothesize from the legal literature and mainstream policy discourse that legal title (the BOLUC) would have the greatest effect on property prices. The possession of legal papers should also be significant because in some cases legal papers will provide almost as defensible a right as the BOLUC but be less valued because in other cases buyers may encounter disputes over property boundaries and ownership as well as costs in applying for legal title. Having both title and legal papers should not be significantly different from having only a title.

These hypotheses are tested through the following configuration of property rights variables (diagrammed in Figure 3). Area A represents the listings which advertised having legal papers but not title; that is dummy variable '*legal papers only*' = 1. Area C represents the listings which advertised having title but did not

Table 3. Descriptive statistics of variables

Variable	<i>n</i>	Mean	Standard deviation	Minimum	Maximum
<i>Price in VND</i>	2954	378,968,355	398,037,979	782,000	4,360,800,000
Property rights variables					
<i>any property right claims</i>	2109	0.7139	0.4520	0	1
<i>title only</i>	616	0.2085	0.4063	0	1
<i>legal papers only</i>	689	0.2332	0.4238	0	1
<i>both</i>	805	0.2706	0.4230	0	1
<i>title +</i>	1420	0.4807	0.4997	0	1
Physical characteristics variables					
<i>sqmHOUSE</i>	2954	156	122	15	1,476
<i>House Width</i>	2631	4.3123	1.6793	2	41
<i>House Length</i>	2630	14.0175	5.7564	2.7	61.5
<i>Floors</i>	1191	2.5635	0.5553	1	12
<i>bedrooms</i>	474	3.4051	1.6783	1	12
<i>street</i>	2954	0.2134	0.4098	0	1
<i>water</i>	2954	0.7055	0.4559	0	1
<i>electricity</i>	2954	0.7150	0.4515	0	1
<i>telephone</i>	2954	0.2081	0.4060	0	1
<i>toilet</i>	2954	0.3297	0.9833	0	11
Neighbourhood characteristics variables					
<i>hsqualhi</i>	2954	0.2529	0.1513	0.0070	0.7885
<i>educrthi</i>	2954	0.0905	0.0396	0.0151	0.2808
<i>population density</i>	2954	314.1120	211.8695	2.4734	1177.6000
<i>unemployment rate</i>	2954	0.3581	0.0346	0.2465	0.5341
<i>population growth rate</i>	2954	0.7896	0.8461	-0.3642	2.9866
Location variables					
<i>Distance to CBD</i>	2954	5.4052	2.4029	1	19
<i>market</i>	2954	0.1946	0.3960	0	1
<i>school</i>	2954	0.1775	0.3821	0	1
<i>wards with highways</i>	2954	0.0278	0.1643	0	1
<i>wards on the urban fringe</i>	2954	0.0264	0.1604	0	1
<i>wards in the central business district</i>	2954	0.1320	0.3386	0	1

Figure 3. Specification of property rights claims in real estate listings



legal papers only = Area A = listings offering properties with legal papers only, n = 689.
both = Area B = listings offering properties with both legal papers and title, n = 805.
title only = Area C = listings offering properties with title only, n = 616.
title + = Area B + C = listings offering properties with any mention of title, n = 1422.
property rights = A + B + C = listings offering properties with any property rights claims, n = 2109.
 Listings not mentioning any property rights, n = 845.
 Total number of listings = 2954.

mention legal papers: '*title only*'. Area B represents the listings which advertised having both legal papers and title: '*both*'. The variable '*title +*' equals 1 if the listing mentioned title at all, either title only or both title and legal papers (area B + C in Figure 3). The variable '*property rights*' equals 1 if it made any of the above claims (area A + B + C).

In the regressions, we want to test the relationship of these varieties of forms of property rights with market prices. We would expect *property rights* to be a significant variable, which is tested in Equation (1) after we find our base model. However, what we want to know is how important having legal title is to the property values. From the literature and after investigating HCMC's particular institutional context in the previous discussion, we would expect to find the following relationships in the coefficients of the various property rights variables:

$$\beta_{\text{legal papers only}} < \beta_{\text{title +}} \quad (2)$$

We would expect that any mention of title is more valuable than claiming possession of legal papers only. Transition land reform policies tend to emphasize the importance of title such that, when listings advertise both title and legal papers, one would assume that the mention of title was key. However, this assumption

could be more fully tested by entering the variables *both* and *title only* separately, thus Equation 3. From the literature, we would expect to find:

$$\beta_{\text{legal papers only}} < \beta_{\text{both}} = \beta_{\text{title only}} \quad (3)$$

with no significant difference between the coefficients for *both* and *title only*.

4.3 The endogeneity issue: Does title give value to property or do valuable properties get title?

One problem in studying the market value of title involves endogeneity. While a title might add value to a property by increasing its property rights security and mortgageability, owners of more valuable properties might tend to pursue the cost and trouble of obtaining title to protect their asset.

Endogeneity is not an overwhelming concern in this case for two reasons. First, value-driven endogeneity of titling is tempered by factors which indicate that the cost of titling appears to be either independent of or negatively correlated with the value of the property. As discussed earlier, the likelihood that a house has a title depends on many things besides a person's initiative: possession of the correct legal papers, fees charged by the government, and the administrative capacity of the property's ward and district. The likelihood that the owner has the proper legal documents is greater the older the house is and the longer the owner's tenancy has been. If one possesses the acceptable legal papers and has continuously occupied the house, receiving the BOLUC is administratively easier and less costly. This implies that older houses, which have consistently been correlated with lower property values in previous studies (Adair *et al.*, 1996; Malpezzi, 2002), are more likely to be titled.¹⁰ Furthermore, titles for newer houses carry significantly higher fees. Vietnam abolished the land use levy charged for properties built before 1980 and reduced it to 20 percent of official land prices for houses built between 1980–93, while houses built more recently have to pay 100 percent of official land prices.¹¹ Therefore, lower valued property owners do not necessarily have less incentive to attain the BOLUC.

Second, a primary interest of the study is to examine the value of legal papers as a property right. Even if having a title is endogenous, this should not affect the

¹⁰ However, while older houses might not be in prime physical condition, they are more likely to be located in the city centre giving them higher redevelopment value and increasing the likelihood that sellers of these properties will pursue the BOLUC. But, we see in Table 3 that the majority of properties are not located in the central business district but are located on average 5 km away from the city centre. Fortunately, our data allow us to include location and neighbourhood housing quality variables in the model to separate out some of these effects.

¹¹ Cost of titling should also be less of an issue for the near future since the state now allows a deferred payment schedule over ten years for lower-income households.

Table 4. Probit analysis between property rights and housing characteristics (Dependent Variable: Property rights)

	Coefficient	Standard error	T-stats
<i>intercept</i>	-0.01172	0.03864	-0.03034
<i>distance</i>	-0.04859	0.02214	-2.19430
<i>street</i>	0.09124	0.06722	1.35732
<i>water</i>	0.25699	0.18952	1.35597
<i>electricity</i>	0.70393	0.19089	3.68769
<i>telephone</i>	0.01916	0.07131	0.26865
<i>toilet</i>	0.01236	0.02755	0.44872
<i>market</i>	-0.07051	0.10629	-0.66339
<i>school</i>	0.08193	0.11045	0.74176
<i>hsqualhi</i>	0.10649	0.31668	0.33627
<i>educrthi</i>	-0.21076	1.32769	-0.15874

Notes: District dummies entered, Year dummies entered. Pearson goodness-of-fit Chi Square = 2886.465; DF = 2924, P = 0.686, n = 2954.

coefficient on *legal papers only* or *both*. As was discussed in detail in the institutional context section, the probability of a seller possessing legal papers is related to factors that are independent of a property's value. A preliminary examination further suggests that properties with title or legal papers do not have significantly more valuable housing characteristics. Table 4 shows results of a probit model that examines the relationship between these property rights and housing characteristics after controlling for location.

We see that most variables do not significantly contribute to the probability of property rights. Most important amongst these is the variable *street* which has consistently been an important determinant of property values, particularly in the context of Vietnam. Also insignificant are water connection, toilet, and the neighbourhood's housing quality or education levels. These are important variables because these valuable characteristics cannot be acquired by the homeowner after having title.¹² Access to electricity is a significant variable. But, this is an amenity that is possible for individual houses to request from the city, so it is possible that

¹² For this reason, we do not include the variable *sqmHouse* in the exploratory probit model. This is because this variable itself has endogeneity problems since a homeowner with title will be more likely to invest into the property, including adding another floor to the house.

this variable itself is endogeneous. Furthermore, illegally tapping into electricity lines is common in Vietnam as in many developing countries. In any case, we will later find that this variable is insignificant to house values.

In sum, these statistics suggest that houses with property rights are not necessarily better houses than those without. Fortunately, the dataset has the advantage of including a large number of variables to proxy for the characteristics of highly valued properties such that the hedonic price model employed in the next section is not compromised by endogeneity issues.

4.4 The hedonic model

In analysing the pattern of real estate prices, the use of hedonic price models is well established in the urban economics literature (Malpezzi, 2002; Halvorsen and Pollakowski, 1981). Because housing is a good which bundles a number of attributes, the hedonic price model is helpful in separating out the effect of these attributes in influencing the price. Applying a hedonic model would be appropriate for the purposes of this study since in the transition context, housing is now supposed to be demand driven rather than supply driven. The market price function for housing and residential land is assumed to be:

$$P = \beta_0 + \sum \beta_i h_i + \mu$$

where P is the price for housing services with a vector of attributes \mathbf{h} . The hedonic price function indicates the value of a collection of housing attributes and by differentiation, $\partial p(\mathbf{h})/\partial h$, the marginal price for any particular attribute. It is assumed that the μ 's are normally distributed.

The Alonso, Mills, and Muth 'standard urban model' found that one of the most significant factors contributing to the value of real estate was its proximity to the centre of the city. Considerable research has extended this model to include other significant variables that also impact house values such as the property's proximity to transportation access, sub-centres, amenities, discriminated neighbourhoods and age of housing stock (Adair *et al.*, 1996; Cevero and Susantono, 1999; Landis *et al.*, 1994). Other non-parametric modeling techniques have also generally confirmed these dynamics (Meese and Wallace, 1997). And these findings have been consistent in a wide variety of countries, including developing countries (Pasha and Butts, 1996) and in the initial studies which have been done in transition economies (Toda, Nozdrina and Maddala, 1998).

As for the selection of functional form, the literature has suggested two approaches: a non-linear estimation through Box–Cox transformation procedures and a linear approach, including semi-log and double-log forms (Box and Cox, 1964; Goodman and Kawai, 1984; Huh and Kwak, 1997; Kaufmann and Quigley, 1987). This study which tested the semi-log and the Box–Cox transformed functional forms was developed by Rosen (1974):

$$R^\lambda = b_0 + \sum b_k P_{ki} + \sum b_l N_{li} + \sum b_m L_{mi} + \sum b_n P_{ni}$$

$$R^\lambda = (R^\lambda - 1)/\lambda \quad \text{for } \lambda \neq 0$$

$$R^\lambda = \log R \quad \text{for } \lambda = 0$$

These are estimated by calculating likelihood functions using parameters obtained through searches over values of λ varying from -1 to 1 .

In the specification of the hedonic price models, log prices are functionally related to four classes of housing attributes: physical characteristics of the house itself (H), neighbourhood effects (N), geographic location of the property within the city (L), and property rights (P). The independent variables and their definitions are listed in Table 2.

Regarding the variables that deal with the houses' physical characteristics, we expect its square metre floor area and the various amenities to be positively correlated with the value of the property. Dummy variables *1998*, *1999*, *2000*, and *2001* should show real estate price growth in HCMC's rapidly growing economy. I dropped one time dummy variable, *1998*, from the model because otherwise the model would not be fully ranked.

There are also neighbourhood effect variables that test the theory that the socio-demographic and general housing quality of the house's neighbourhood is a significant factor in its market value. The variable *housing quality high* is the percentage of housing stock in the property's ward which is of government standard grade 1 (essentially houses built of permanent materials which should be positively associated with property values). This variable is the closest proxy for a house's age that is often included in a hedonic price model. Similarly, *education rate high*, the percentage of the ward's working age population with a university, vocational, masters, or doctorate degree, should be positively associated with property values. Presumably, higher educational attainment is correlated with higher incomes.

In addition to the physical characteristics and neighbourhood effect independent variables, there are important location variables which could increase the value of the property such as its proximity to the city centre, streets, highways, markets and schools. In addition, I created a large number of district dummy variables. As discussed earlier, each district is a fairly autonomous governing body with regard to the disbursement of property titles, approval of land development projects, its investment strategies and reputations about livability.

As explained in Figure 3, I specified five property rights variables.

5. Empirical findings

The results of the econometric analysis are shown in Table 5. The base model was developed by fitting the physical property characteristic variables and then entering the neighbourhood and location variables. Most of the hypothesized variables

Table 5. Estimate equations for hedonic price models for housing in Ho Chi Minh City, Vietnam 1998–2001 (Dependent variable is in house prices in Vietnamese dong (VND))

Equation Estimation Method	Base model smei-log	EQ 1 semi-log	EQ 2 semi-log	EQ 3 semi-log
constant	18.412	18.380	18.366	18.966
Distance to CBD	-0.265 (-11.031)	-0.260 (-10.838)	-0.251 (-10.494)	-0.252 (-10.508)
SqmHouse	0.426 (33.903)	0.422 (33.733)	0.419 (33.521)	0.418 (33.400)
Street	0.234 (18.742)	0.233 (18.761)	0.233 (18.815)	0.234 (18.807)
Water	0.047 (1.120)	0.041 (0.987)	0.038 (0.921)	0.037 (0.892)
Electricity	-0.040 (-0.967)	-0.059 (-1.421)	-0.062 (-1.496)	-0.062 (-1.512)
Telephone	0.074 (5.975)	0.073 (5.997)	0.072 (5.874)	0.072 (5.900)
Toilet	0.123 (10.196)	0.123 (10.245)	0.120 (10.058)	0.120 (10.046)
1999	0.042 (2.250)	0.032 (1.737)	0.016 (0.863)	0.012 (0.622)
2000	0.059 (3.404)	0.061 (3.497)	0.061 (3.513)	0.061 (3.504)
2001	0.123 (8.054)	0.122 (8.037)	0.124 (8.170)	0.124 (8.162)
Housing Quality High	0.131 (6.185)	0.130 (6.176)	0.128 (6.088)	0.128 (6.082)
Education Rate High	0.063 (2.756)	0.064 (2.809)	0.062 (2.738)	0.062 (2.736)
district dummies entered	yes	yes	yes	yes
<i>property rights</i>	-	0.072 (5.745)	-	-
<i>legal papers only</i>	-	-	0.033 (2.323)	0.033 (2.342)
<i>title only</i>	-	-	-	0.087 (6.215)
<i>title +</i>	-	-	0.111 (7.196)	-
<i>Both</i>	-	-	-	0.105 (6.006)
Adjusted R2	0.604	0.608	0.611	0.611

Notes: Coefficients are standardized Betas; T-stats in parentheses. $n = 2,954$.

are significant and have the expected sign on the coefficients and are robust across the different equations. Distance from the city centre is a highly significant variable and negative: prices fall as a house's distance from the city centre increases. Also not surprisingly the larger the house is, holding other variables constant, the more expensive its listed price. Another major contributor to prices is a house's proximity to street access. Properties appreciated over the years as expected in this city with rapid population growth and high housing demand; the coefficients for the year dummy variables are positive and increasing. Amenities such as toilet and telephones had significant and positive coefficients whereas electricity and water were insignificant. Also significant were the ward neighbourhood's housing quality level and educational attainment rates which were positively correlated to prices. We included all the district dummy variables except one that did not have many observations (District 2 with 7 observations) so that the model would not be fully ranked. The base model equation has good explanatory power with an adjusted R-square of 60.4 percent.

In Equations 1–3, we tested our various property rights hypotheses and found some interesting results. As predicted, the mention of any kind of property rights significantly increased the offer price, by 7.2 percent in Equation 1. While property rights are significant, it is useful to note their relative importance to the other significant independent variables. The property rights coefficient is at the same level as *telephone* but lower than *toilet*. Much more important contributors to a house's value were the size of the house, its location in the city, and transportation access.

When separating out the effect of various property rights claims in Equation 2, as expected, title carries a higher premium than having legal papers only. Any mention of title has a stronger effect on offer prices than legal papers alone (11.1 vs. 3.3 percent). To test our last hypothesis, in Equation 3, we enter the two title variables, *both* and *title only*, separately. Surprisingly, properties that claim both title and legal papers list prices that are significantly higher than those offering title only, even after holding all the other explanatory variables constant. Therefore, the *title+* variable employed in Equation 2 masked the fact that having *both* legal papers and title adds more value to a property than title alone (10.5 vs. 8.7 percent).

I then performed a Box–Cox transformation on the preferred model and found that the best lambda is 0.20 and the confidence interval at $\alpha = 5\%$ is (0.15, 0.20), which does not include 0 or 1. Therefore, we have to reject the null hypothesis that $\lambda = 0$ or 1. However, as other studies have found, while the fit is improved, it did not change the sign or the relative weights of the coefficients.

6. Conclusion

This paper began by asking how could Ho Chi Minh City's real estate market function with an incompletely instituted system of legal property rights. The

empirical analysis of the prices of the properties offered in HCMC's real estate market during the years 1998–2001 points to several reasons.

First, with the onset of transition and ensuing population migration, HCMC had very high and increasing housing demand as evidenced by the appreciation in property values over this period (see coefficients of year variables in Table 5). Although most houses did not have legal title, in the face of housing shortages, buyers were willing to buy houses without property rights. Around 28 percent of the ads did not claim any property rights. For some buyers these properties, while risky, are desirable because they will also be somewhere between 3–10 percent less expensive. However, property rights do matter in HCMC's private housing market. Roughly 72 percent of the listings examined make some sort of property rights claim. What this paper shows is that a variety of forms of property rights operate in this market. HCMC's private housing market works to the extent it does because Vietnam's transitional institutional context tolerates a range of property rights forms.

Before transition, Vietnam had enforced a household registration system which limited movement and documented household tenancy. However, it also tolerated private housing transactions loosely managed by ward officials. Therefore, Vietnam had at the onset of transition relatively stable tenancy and some experience with private transactions. Some area scholars point to this flexibility and practical adaptability as a cultural factor that helps explain why HCMC seems more amenable to market transition than some other areas of Vietnam, particularly the north. One evidence of this amenability is the early introduction and rapid growth of the newspaper listings used in this study. They display an openness to make deals with strangers outside of social networks. In any case, this documented and stable tenancy helped lay foundations for private property rights claims.

Vietnam's transition also enjoyed relative macroeconomic and political stability. In transition, markets need a clear indication from the state that it will respect private property rights by limiting its expropriation power. This signal could have been given by a legal system in some contexts and certainly laws were part of the signals given by the state in Vietnam. The original 1993 Land Law that introduced private use rights unleashed a flurry of development even though detailed implementing legislation had not yet been instituted. Fear of state expropriation was further mitigated by several credible responses from the central government – higher land compensation rates, public demotions of officials who expropriate without a solid public interest reason (Vo, 2000), and allowing citizens to criticize local officials' management of land in state-run newspapers.¹³ However, Vietnam's

¹³ For example, in the article 'People say, "We ask for justice,"' by Bo Hong Quynh, *Tuoi Tre*. Number 117, p. 13, September 26, 2000, households accuse the city government of not compensating according to regulation Decision 22. Another article accuses a ward chairman of asking for kickbacks for land compensation for Hiep Phuc Industrial Zone, *Tuoi Tre*, July 18, 2000. Number 83, p. 5.

economy is not characterized by the rule of formal law and the state still retains significant discretionary powers. This study shows that in reaction to this, market agents look beyond the letter of the law to ways in which they might be able to negotiate their property claim most readily with decentralized state institutions. And this negotiation involves a variety of forms of property rights.

The paper's empirical findings show that possession of legal papers alone is a significant form of property right. As one would expect, we also found that house sellers possessing legal title can ask a higher price than those of equivalent houses possessing just legal papers documenting their tenancy. However, surprisingly, we also found that title itself does not eliminate the value of legal papers but that actually having both is a more valuable form of property right.

This points to the fact that the value of property rights emanates from where it is enforced within the particular institutional context of a market. In the western legal context, the majority of property titles are so clear that title is the sole form of property right. As discussed earlier, this is because over time we have established an entire property rights institutional apparatus with private professionals (title insurance, property lawyers, and brokers) who make sure title is clear before buyers and sellers transact to the point that the norm in transactions is that property rights are a minor consideration almost taken completely for granted and certainly not something that needs to be advertised by sellers. The value of a hypothetical 'legal papers' variable would be very small because not only is it rare but the legal costs to clarify the title would be considerable. Rather, people would just not buy such properties since the majority of properties for sale have clear title and most housing finance institutions require it. Foreclosure and eviction procedures are also enforced so that there is no intermediate level of property rights.

But Ho Chi Minh City's real estate market emerged because it did not wait for legal titles. Rather, despite a lack of development in the court system and legal framework, there were alternative stabilizing and property rights enforcement institutions to enable transactions. The majority of property disputes were negotiated with neighbourhood block committees and ward officials, guided by social norms and bureaucratic discretion in implementing the incomplete and complex formal laws and regulations. So, in effect one had property rights if neighbours and local government officials agreed. With these bureaucrats, possessing more documentation would assist in negotiating one's property right which helps explain our empirical results. That is, legal papers alone can be a form of property right enforceable by a state agent. Also, legal title is superior to possessing legal papers only. However, having both is even better because, rather than the rule of law automatically privileging the title possessor, the right must still be negotiated when it is challenged.

This case points to the need to redirect the focus of policy and scholarly discourse around property rights reforms. The informal/formal discourse is too simplistic and does not fit empirical cases well. In Vietnam, state actors helped enforce a variety of property rights forms to enable properties to come onto the market sooner rather than later. The key point is to examine the source of property rights

enforcement and how property rights interact with market operations. In place of a binary condition, we find property rights which can operate on a continuum allowing sellers to adjust the price accordingly.

Also important to mention is that our findings show that other factors besides property rights are equally if not more important than property values. In particular, a house's location in the city and proximity to transportation routes overshadowed property rights variables. However, the importance of urban planning initiatives in promoting housing markets is often under-emphasized in transitional housing reform policies which have tended to focus on measures to liberalize the sector from the state through the development of legal institutions. Instead of state retreat, effective land use and transportation planning are needed to support the formation of markets.

The case of Ho Chi Minh City's real estate market shows how thoroughly institutions such as property rights can be configured in a variety of ways in order to operate in different institutional contexts. Vietnam's current property rights system certainly has some major drawbacks (Nguyen, 2000) but there is no doubt that the market has flourished and property rights do exist and these have been derived only partly through legal enforcement. As de Soto rightly points out, we in the west often forget how we have built up market institutions. But he and others tend to overemphasize the role of law giving incentives in economic transactions rather than the law as one of severally socially constructed institutions which shape economic actions.

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