

LAND ADMINISTRATION AND MANAGEMENT IN THE PHILIPPINES: REFORMS AND INNOVATIONS

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Lessons learned in implementing policy and systems reforms

Summary

The Philippines has a total land area of 30 million hectares. About 47% of which are classified as Alienable and Disposable Lands. These consist of 24.2 million parcels but only 13.1 million are titled. Sixty percent (60%) of the real property of the Philippines are being held without legal titles.

The Land Administration System in the Philippines is generally, neither efficient and effective considering the multiple and conflicting laws on titling, multiple land titling process, poor land records information and management system, multiple agencies on titling and on land valuation and multiple taxes on land transactions. These caused the highly inefficient and inequitable land markets in the country. This in turn result to reduced economic activity and government revenues, thereby hampering economic growth and development both in the urban and rural areas.

To address the need to reform the land administration system, the Philippines committed to implement a long-term Land Administration and Management Program that will improve land tenure security and land market efficiency. The Program is made possible through the World Bank's Learning and Innovation Loan (LIL) Program and Australian Agency for International Development (AusAID) Technical Assistance.

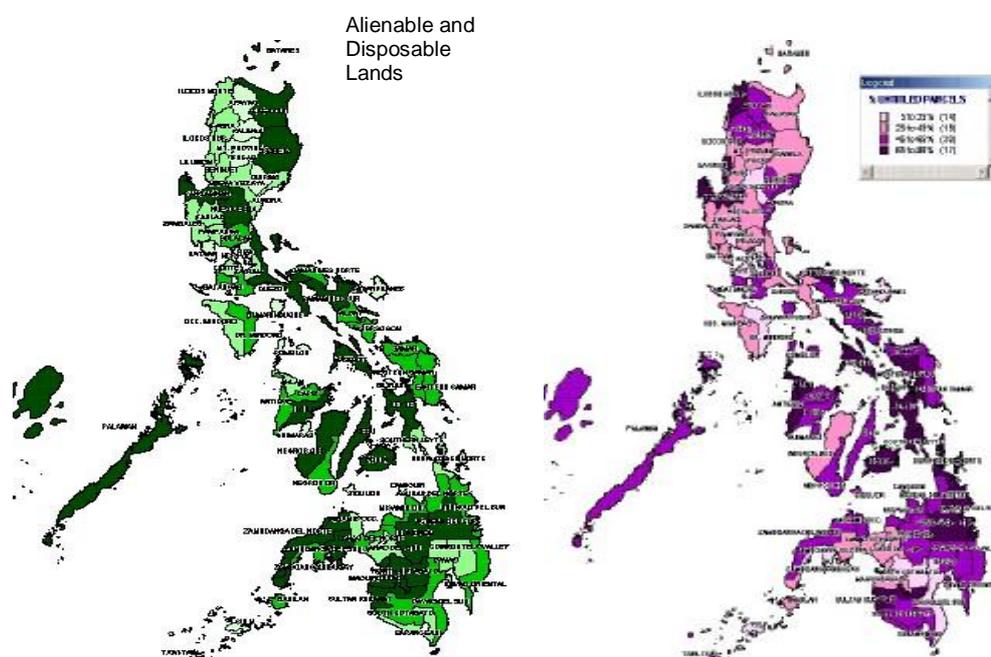
The first phase of the Land Administration and Management Project has implemented prototypes in land titling and administration and land records management; established one-stop-shops; undertaken a simulation study of valuation standards for LGUs and a single valuation base for both LGU and BIR property-based taxes; undertaken key policy studies; and has integrated gender equity on a project wide scale.

In the implementation of reforms and innovations, there are critical factors that should be fully considered to ensure success. These factors are: engaging the stakeholders and high level government for support and participation in the reform process, exercising key leadership by the appropriate agency or institution, building strong partnership with the local government units and more importantly, relating titling to economic growth and poverty reduction to sustain benefits obtained. Finally, that it is relevant that the reform be guided by an overall framework or roadmap.

1. Land Tenure Status in the Philippines: National Situationer

The Philippines has a total land area of 30 million hectares; 50% of which are considered forest lands, 3% as unclassified and 47% are classified as Alienable and Disposable Lands.

In the Philippines, a form of land registration operates under a Torrens system whereby a land title pertains to one land parcel and subsequent transactions are registered against the land parcel. Admittedly, there is no definite information on the number of untitled parcels of land. However, based on the Land Tenure Study in 2004 conducted under the Land Administration and Management Project (LAMP), it was estimated that there are about 24.2 million parcels of Alienable and Disposable Lands. Only about 13.1 Million parcels are titled, 11.1 Million parcels are untitled or 46% of all Alienable and Disposable Lands.



In a Land Market Study conducted in 2003, it was shown that some 60% of the real property of the Philippines is informal. That means, these properties are being held without legal titles.

Moreover, most of the forest lands in the Philippines are occupied and used by persons without secure rights. In the urban sector, the number of informal settlers in Metro Manila is some 4 Million. These refer to urban families occupying public and private lands without legal documentation.

2. Land Administration and Management in the Philippines: An Overview

The Land Administration System in the Philippines is characterized by the following features:

- 2.1.1. It is governed by various laws which provide for the various mode of issuing original certificate of titles which allows titles to be issued by both administrative and judicial means;

The provisions of these laws are not only outdated having been promulgated during the colonial regime of the Americans in 1900s but also overlap or are inconsistent with each other.

- 2.1.2. It consists of several government agencies handling land titling and land records management.

The Department of Environment and Natural Resources issues land tenure instruments for public alienable and disposable lands such as free patent, homestead patent and miscellaneous sales patent. The Department of Agrarian Reform issues Certificates of Land Ownership Award to tenants-farmers over public and private agricultural lands covered by the Agrarian Reform Program. The National Commission on Indigenous People issues Certificate of Ancestral Land or Ancestral Domain Title to members of indigenous communities. The Land Registration Authority through the Register of Deeds, issues Certificates of Titles for private lands acquired under various modes of acquiring ownership provided under the Philippine Civil Code. Regular courts of justice issue titles through judicial confirmation of title.

- 2.1.3. Multiple land titling processes and different standards for survey and mapping are being undertaken by these various agencies involved in land titling;
- 2.1.4. Poor land records management system aggravated by years of illegal alteration, fire and water damage, and misplacement from transfers;
- 2.1.5. There are also several agencies undertaking valuation on properties which implement various and conflicting valuation methodologies and there are two valuation schedules for taxation purposes, one serves as the basis for the real property taxation and one for the imposition of property transfer taxes;
- 2.1.6. There are several kinds of taxes imposed on land transactions such as, capital gains tax, documentary stamp tax and transfer taxes amounting to 8% of property value;
- 2.1.7. There is an absence of a complete homogeneous and updated mapping of all land parcels and secondly, this mapping is being undertaken by local government and two departments of the central government;
- 2.1.8. There is no mechanism for ready exchange of land information between land-related agencies;
- 2.1.9. There is no single point of contact for the public to transact on land titles;
- 2.1.10. There is lack of transparency and accountability in the land registration system.

3. Effects of the present system

The present land administration and management system, being inefficient and ineffective as described above, has created a sizeable bottleneck for sustainable urban and rural development in the Philippines due to the following:

3.1.1. Delay in obtaining titles;

It takes between six months and several years to obtain original title and between several weeks and a few months to register any land transaction. In terms of the number of days taken to register land transactions, the Philippines came second to the last among twelve countries included in a World Bank-sponsored investment climate survey in 2003.

3.1.2. High cost of obtaining a title and transaction cost;

It costs about over \$2,000 to obtain a title that can be defended in the courts, one of the highest in the world.

3.1.3. High land tax rates;

High transaction taxes discourage formal transactions to avoid the taxes and put pressure on the valuation system to reduce the assessed value of property to compensate for high tax rates. In turn this distortion of the tax base creates secondary problems for agencies of government responsible for leasing government property and making compensation for resumption of land.

3.1.4. Large number of administrative and court cases involving conflict of claims over the same parcel of land, quieting of titles, annulment of fake titles, overlapping titles and boundary disputes etc.;

3.1.5. Difficulty in accessing land records and information;

3.1.6. Proliferation of fake, duplicate and spurious titles;

3.1.7. Eroded investors' and public confidence on the formal land registration system.

The foregoing have caused a highly inefficient and inequitable land market in the Philippines. The people largely rely on informal land markets, resulting in long-term land insecurity and decreased government revenues from land related taxes. Recent studies in two cities showed that there is inequity in the real property taxation system due to the low quality of the valuation base.

The Philippine National Government revenue from taxes on real estate transactions has declined since 1995. The real estate sector has grown more slowly than the rest of the Gross Domestic Product (GDP) since 1990. Thus both the real estate sector and real estate taxes are a smaller part of GDP now than in 1991. Below-average growth in the real estate sector cost the economy over P100 Billion from 1991 to 2000 or \$ 1.8 Billion. (Bloch, 2004)

The P10 Billion per year could have bought 50,000 low cost housing units or 65,000 families in urban anti-poverty programs or 200,000 hectares of irrigated land or 125,000 jobs created for rural poor. (Bloch, 2004)

Although there are other factors which have contributed to the reduced growth, high transaction costs, delays and low confidence are major contributing factors. They reduce economic activity and government revenues.

Effect of proliferation of informal transactions in the land market resulted to an estimated dead capital valued at \$132.9 million in 2000. From the viewpoint of the Government, dead capital is measured by the transaction value of land that escaped detection and was not recorded in official government statistics plus the foregone transaction value arising from the discounting applied on the land because of the lack of the necessary land documentation. From the viewpoint of Private Participants in the Land Market, dead capital is only equal to the foregone transaction value arising from the discounting applied on the land because of the lack of the necessary land documentation. (Ramos, 2004)

This should be seen against the estimated negotiable value of the Philippine real estate market in 2000 which is about P10.82 trillion or \$ 193 Billion at current prices. And it can be expected to increase to P17.8 trillion or about \$317 Billion by 2005 and to P25.356 trillion or about \$451 Billion by 2010. (Ramos, 2004)

4. Policy and System Reforms and Innovations: LAM Project (LAMP)

The Philippines Government committed to implement a 15-20 year Land Administration and Management Program which aims to alleviate poverty and enhance economic growth by improving land tenure security and land market efficiency in rural and urban areas through the development of a land titling and administration system based on clear, transparent, coherent and consistent policies and laws and supported by an institutional structure.

The Philippines through the World Bank's Learning and Innovation Loan Program and Australian Aid (AUSAID) Technical Assistance implemented the Land Administration and Management Project Phase 1 between 2001 and 2004. The Project's aims were to (1) assess the viability of a long-term Land Administration and Management Program and (2) formalize the institutional arrangements needed to support its development, by testing alternative approaches to accelerated programs designed to improve the protection of rights to land, eliminate fake titles and introduce a framework for an equitable system of land valuation.

The second phase of the LAMP will run for 5 years. Loan effectiveness of the World Bank loan was 11 October 2005.

Following were some of the major innovations and policy and systems reforms undertaken in Phase 1 to improve the land administration and management system in the Philippines.

4.1. Land Tenure Security

4.1.1. Land Titling and Administration prototype was implemented in six municipalities of Leyte Province, one of the poorest provinces in the country. The project developed and tested a systematic approach to accelerated land titling to demonstrate the effectiveness and efficiency of the mass approach to titling compared to the current sporadic (on demand) method. Prior to the start and during the development phase a number of valuable study tours sponsored by the Australian Government were made by our senior staff to the Departments of Lands of Thailand and Lao PDR. We gained a number of insights on alternate approaches to mass land titling and records management as well as service delivery.

Systematic Adjudication was employed as a process in integrating community mobilization, land surveys and adjudication of land rights. Systematic Adjudication Teams are composed of Social Development Staff, Survey Staff and Adjudicators. The teams encourage the local government representatives and the community members or residents to participate in the planning of the titling, and to participate in the adjudication of rights, land boundary demarcation and any dispute resolution. Since many of the land parcels are tenanted, an innovation has been the simultaneous engagement of the Department of Agrarian Reform to issue long term leases to agrarian reform beneficiaries.

The systematic adjudication approach consists of the following major activities:

- 4.1.1.1. Barangay council meeting to establish partnerships in the local government unit for the planning and implementation of survey and adjudication activities;
 - 4.1.1.2. Social investigation, verification and validation of land claimants;
 - 4.1.1.3. Mobilization of community development officer and local hired staff to inform the community and to form a representative group of community members (CAG); a number of events both formal and informal are used including a (barangay assembly to orient the community on the process to be undertaken;
 - 4.1.1.4. Planning for survey and adjudication with the barangay council and CAG;
 - 4.1.1.5. Barangay assembly approval of the plan for the actual survey and adjudication activities;
 - 4.1.1.6. Survey and adjudication wherein monumenting and sketching are conducted with the presence of land claimant and adjoining owners
 - 4.1.1.7. Public notices and appeal period;
 - 4.1.1.8. Consolidation and exit phase which includes distribution of titles and sustainability planning, including linking the Barangay to other follow on government sources of funds for community development.
- 4.1.2. Under the Land Titling and Administration prototype the existing legal framework was adopted since legislative change in the Philippines is usually a lengthy process. Two major approaches to titling were fully tested: the Cadastral Proceeding or Compulsory Judicial Titling under the judicial process and Free Patent under the administrative process. Other administrative process for issuing titles (i.e. Homestead

Patent and Miscellaneous Sales Patents) were partially tested since the community do not find either attractive or suitable to the existing reality.

4.1.3. Establishment of a One Stop Shop was also implemented to test institutional collaboration in the provision of land administration services by providing a one stop shop for all land-related transactions in a manner that is transparent, cost-effective and convenient to its customers. To achieve this, all land related agencies were housed in the same office to serve as a single point of contact for the public, and this was followed by the streamlining of land transaction processes.

The One Stop Shop provides the following services:

- 4.1.3.1. Public assistance frontline services;
- 4.1.3.2. Land records management;
- 4.1.3.3. Land surveys authorization, verification and approval;
- 4.1.3.4. Processing and approval of public land applications;
- 4.1.3.5. Registration of land transactions;
- 4.1.3.6. Land tax information, assessment and processing;
- 4.1.3.7. Agrarian reform information services;
- 4.1.3.8. Public information services.

The One Stop Shop operation in Leyte started in July 2002. It receives 20-30 transactions daily or 700 transactions monthly.

Base Camps were established as an arm of the One Stop Shop. All field operations for initial land titling are conducted at the base camp through the integrated process of systematic adjudication as discussed above. Processing of the free patent application is being done in the base camp. This includes verification of landholding, research and preparation of land parcel technical description, printing of name of patentee and technical description in the judicial form, and the review and approval of the free patent. The registration of patents is done at the Register of Deeds which is integrated with the One Stop Shop.

Other services extended by the base camps which form part of the systematic adjudication process are:

- a. assistance to land claimants in preparing documents to support the free patent application;
- b. conduct relocation survey if requested by claimants to identify boundary monuments;
- c. conduct of correction/subdivision survey;
- d. conduct of mediation in case of ownership and boundary conflicts.

4.2. Land Records Management

The Record Management prototype was implemented in Quezon City and focused on record verification and reconstitution, creation of cadastral map base, identification and elimination of fake and duplicate titles in the prototype area and linkage to the Land Registration Authority-sponsored Build-Own-Operate computerization project. The project developed procedures designed to address lack of (1) complete and up-to-date picture of all existing land

parcels; (2) a mechanism for the ready exchange of land information between land-related agencies; and (3) a single point of contact for the public to transact land titles. A National Land Records Management Strategy was developed under this prototype to form a framework for both the long term and the short term reform in land records management. It includes actions which can occur immediately under the existing legal framework and also proposed changes to the law to provide better management of the land records within a land information infrastructure which would emphasize far greater exchange of land information, greater reliability and transparency and removal of costly duplication.

An Inter-agency Technical Working on Fake Titles was established which developed a Manual on the detection of Fake Titles and created a Database of Overlapping Titles. The TWG also conducted training on fake title detection.

The prototype has developed a Survey Plan Inventory System to hold information about each approved survey plan, including the barangay location, approval information, parent Transfer Certificate of Title, parcels and parcel area. A homogeneous and continuous map base was designed to index all land parcels and to provide a spatial reference for the land records. This is essential to avoid duplicate and overlapping titles. The Cadastral Index Map (CIM) shows a unique number on each parcel which is then linked in a one to one correspondence with each live land title and also is linked to the approved survey plan. It also provided for the tracking of the survey plans. The system has been linked to digital copies of plans and provides easy access to survey plan information and improved records preservation, thereby improving records security.

4.3. Land Valuation

The fiscal cadastre is under the responsibility of the Department of Finance at the national level and the local governments which are mandated by law (local government code) to impose real property taxes. LAMP includes as one of its agency partners the Department of Finance (DOF), particularly the National Tax Research Center (NTRC) and Bureau of Local Government Finance (BLGF). The particular tasks have included the development of property valuation standards and promotion of institutional and legislative reform aimed to strengthen the valuation base for taxation.

Simulation studies in two cities (Sta. Rosa, Laguna and Antipolo) were undertaken in 2004 and 2005 respectively, to assess impacts of adopting the proposed Philippines valuation standards by Local Government Units (LGUs). Capacity building was conducted. The result is that both cities would benefit from adopting the new valuation standards, by establishing a market based valuation schedule and removing inequities between classes of properties. Secondly, the valuation base would allow the removal of the BIR's own valuation base. Thirdly, a reliable "barometer" on the land market is really lacking in the Philippines and many government agencies, business and the Courts would benefit from this base.

The City Government of Sta. Rosa is now finalizing a local ordinance to bring the new system into effect.

4.4. Land Policy Studies and Reforms

Key policy studies were undertaken as a basis for testing of innovative approaches and for developing institutional and legislative reform agenda for LAM. An important strategy was to pursue policy reform in parallel with the before mentioned operational reform. Not only could significant improvements be made at the process and capacity level but also it has meant that the policy development teams have had a reference to the real situation and the interaction between the policy and the operational levels has benefited both initiatives. The studies are as follows:

- 4.4.1. Land Development Process which was led by the National Economic Development Authority (NEDA) and which reviewed the existing system of land allocation and utilization for the best use of land. The objective was to suggest reform to land use planning, land conversion and site development procedures and processes;
- 4.4.2. Land Registration Finance and Fee Structure which was led by NTRC of the DOF and which reviewed the current tax and fee structures in land titling and land transactions to validate the perception that high fees and taxes act as disincentives against both initial and subsequent land registration;
- 4.4.3. Real Property Valuation Framework which was also led by NTRC and which studied the current role of property valuation, its strengths and weaknesses and the cost of running the existing system;
- 4.4.4. Forest Boundary Demarcation and Operational Procedures Policy which was led by DENR and which developed a system for the development of a database for the general characteristics of land uses in the uplands that will serve as a tool for planning with regard to land use and defining the land boundary between forest and A&D lands;
- 4.4.5. Fragmented Land Laws and Regulations Framework which was led by the Department of Justice and which examined and updated the previous study on laws and regulations on public land disposition, titling and registration;
- 4.4.6. Institutional Arrangements for Land Administration which was led by the Department of Budget and Management and which examined the existing institutional responsibilities for land administration, their effectiveness and appropriateness, gaps and recommendations for improvement.
- 4.4.7. In addition, to these major studies the Project conducted the following supplementary studies:
 - 4.4.7.1. Land market study to determine the size and nature of the formal and informal land markets;
 - 4.4.7.2. Land tenure study to estimate the land tenure situation across all 1,610 local government areas, and in particular to estimate the number of untitled parcels in each jurisdiction;

- 4.4.7.3. Land Mortgage study to understand existing practices in farming communities and to recommend how such rights should be reflected in formal documentation at the time of land titling;
- 4.4.7.4. Land and Tenants study to guide the project on how best to deal with land titling of land under tenancy arrangements.

These studies led to the following reform agenda which the DENR is continuously pushing before the House of Representatives:

- (1) The role, functions and services of the Land Management Bureau under DENR and Land Registration Authority under the Department of Justice to be undertaken by a single land administration agency, the Land Administration Agency;

This is expected to resolve issues of poor segregation and duplication of functions, cumbersome decision-making structures, disincentives related to performance and lack of confidence to the titling system in the Philippines.

- (2) A National Appraisal Authority to regulate the valuations being undertaken by the LGUs, to reform the property valuation system and to provide training to local government staff in property valuation and assessment;

A national uniform valuation system based on standards regulated by the NAA is seen as essential for the implementation of a fair, equitable and transparent land taxation system.

- (3) Administrative titling and systematic mass titling to be promoted to fast track land titling;

Reform of the public land act is being promoted to, in the short term, allow the efficient issuing of the free patent as recognition of ownership rights in land, both urban and rural, and to make the title without conditions. Titles to land is to be based on the peaceful possession of land, with the duration based on the civil code;

- (4) Improve land records management to improve LGU revenue collection and stimulate activity in the land market;

For the long term, development of land records databases should be guided by a national strategy, and a full understanding of key agency requirements. An appropriate data management system will be required for a more extensive development.

Land records management can also be improved through the introduction of new systems such as (a) cadastral index map; (b) cross index of records and; (c) record validation procedures. These are all designed to improve records integrity and detect inconsistencies, gaps and missing records. These methods which will provide for more accurate land records information are expected to encourage the private sector and the public in investing in land.

- (5) Review of land taxes;

- (6) Removal of the requirement of tax payment prior to the issuance of land title; and
- (7) Establishment of a profession of property valuation.

4.5. Gender Mainstreaming

Reforms in land administration and management include as an integral part the advocacy for gender equity. Relevant policies on land titling have been promoted, not only in terms of implementation of men and women in the implementation of the project but also in recognizing the rights of women in acquiring land rights.

Toward this end, a LAMP Gender Mainstreaming Handbook was developed and extensive training of staff implemented

5. Lessons Learned in Implementing the Reforms and Innovations

LAMP was able to test the existing legal framework, procedures and institutional coordination among the various agencies. It was also able to identify the necessary policy, legal framework and institutional reform agenda required to establish a sustainable and efficient land administration system. However, to facilitate the adoption of reforms and further promote the innovations, following should be considered:

5.1. Stakeholders' Support and Participation

A strong constituency composed of the various stakeholders (policy makers, basic sectors, private sectors, government agencies, civil society) on land administration and management plays a very crucial role in improving awareness of issues, participation in the reform process and integration of their concerns and interests in the reform agenda. It is important to build strong partnerships with these stakeholders to promote and implement the reforms.

It is also relevant that in promoting reform agenda, a clear strategy is well-defined and the agenda should have direct impact on the interests of the stakeholders.

Soliciting the support of media is also very helpful.

5.2. High Level Government Support

High level of political support from the executive, legislative and judicial branch of the government proves to be indispensable to attain the reforms. To enjoy such support and to maintain it, it is required that tangible outputs are delivered. Under the LAM Project, the sustained distribution of titles to landholders during the project implementation demonstrates the results that can be generated from the reforms.

5.3. Lead Agency as the Champion for Change

In implementing reforms, the proper agency should exercise decisive leadership to guide the national government and the policy makers to bringing significant legal and institutional changes.

Establishing good relationship with concerned land-related agencies is also key to ensure cooperation, coordination and unity in the reform agenda.

5.4. Partnership with the Local Government Units

LGUs play a very significant role in land administration reform and the delivery of services to the community. Support for legal and institutional changes can come from building support within LGU leadership. LGU leaders can motivate community participation in the titling process.

LGUs also play important function in supporting and sustaining initiatives on improving land records management to improve their revenue collection.

5.5. Implications on socio-economic situation

Titling by itself alone cannot lead to economic growth and poverty reduction. Tenure security through titling must be linked to broader development programs for the envisioned social, economic and financial outcomes to be fully realized. An emphasis on post-titling activities is needed to facilitate linkages between government LAM agencies to exploit the benefits of titling and to offer the beneficiaries access to services and finances to develop the land.

To sustain benefits obtained from issuance of titles, there is a need to build capacity of LGUs to provide assistance for economic endeavors that the beneficiaries may decide to engage into.

5.6. Reform to be guided by an over-all framework or roadmap.

It was also recognized that the reform that has to be pursued should be guided by an over-all framework or road map to guide the future phases of the reform programs. The roadmap should be a detailed master plan to provide the direction and guide the implementation of the long-term Land Administration and Management Program.

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Biographical notes

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She used to be a legal counsel in 1996 in DENR where she gained her experience in handling land-related cases. In 1998, she also served as legal counsel in the Department of Agrarian Reform (DAR) and later Executive Director of the Department of Agrarian Reform Adjudication Board (DARAB). Thereafter, she joined the Housing and Urban Development Coordinating Council (HUDCC) as Director for Legal Affairs Office and served as the Overall Project Director for the National Government Center (NGC) Housing Project. She again transferred to DENR in 2004 as Assistant Secretary for Legal Affairs and designated as the Executive Director of the Land Administration and Management Project (LAMP).

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