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16.

A Competition for Land. Policies Towards Informal Urban Settlements in Cambodia, from Regularization to Eviction

Valérie Clerc

IRD - French National Research Institute for Sustainable Development, CESSMA - Centre for Social Sciences Studies on Africa, America and Asia, Paris, France
valerie.clerc@ird.fr

Abstract

Competition for land is a new dimension of vulnerability in informal settlements. With the rapid increase in urban land prices, central and pericentral urban land occupied precariously is increasingly coveted both by investors for prestigious projects, and by the people who occupy them, for upgrading with staying living on site. Phnom Penh is an emblematic case of this impact of liberalisation and globalisation of real estate investment on informal settlements and policies that handle them. If the State at times acts as mediator or favour regularization, more often public authorities now implements ambiguous or even antagonistic policies, and often give the preference to investors. As a result, there are more and more forced evictions of residents, who move in distant suburbs, excluded from the heart of the city. Next to the Right to the City, competition for land of central and pericentral urban zones today brings to light the idea of the Right to a Place and to the Urban Centre.

16.1.

Informal Cambodian Settlements Challenged by Competition for Land, Forced Evictions and Resistance to Boeung Kak

In the context of trade globalization and of financialization of the city, the rapid increase in urban land prices has changed the policy concerning informal settlements. Since the 2000s, competition for land has appeared between major urban real estate investment projects and low-income housing areas located in central urban areas. This competition is hampering access to housing for low-income households and creating strong contradictions in urban policy addressing these areas. In several cities aiming to be competitive, public action is caught between the desire to attract international investors and the need to continue or implement social urban policies. Land and real estate are more than ever at the heart of the issues and strategies of urban public action.

The issue of informal settlements is reconsidered in the light of new funding opportunities that the land value and the influx of investors are supposed to help, and land rivalries emerge with hotspots of resistance or social conflict. This competition occurs on land that is well placed, often central, held by precarious land titles and offered to investors for urban renewal. New forms of public mediation emerged towards agreements between investors and the public. Governments most often favour urban renewal by investors (destruction of existing spaces and reconstruction of new districts), at the expense of the preservation of the existing habitat and its inhabitants. We are witnessing an important increase in the number of evictions.

Phnom Penh reflects this process. With the liberalization of the economy and the internationalization of real estate investments, the arrival of investors and the emergence of large projects revealed rivalry for urban land and conflicting urban public policies. At the heart of the city, the Boeung Kak Lake is a case in point: the choice to undertake a large project led to the transfer of public domain, the lake embankment and the eviction of residents from informal settlements.

16.2.

Land Competition That Leads to Antagonistic Public Policy

Cambodian urban policies are marked in the 2000s by the arrival of international flows of real estate investment. The globalization of trade and the liberalization of the economy, especially since the Paris Agreements (1991), have generated economic growth, the most dynamic in South East Asia (average annual growth rate of 8 % between 2000 and 2007), which tripled the gross national income and more than doubled the per capita income since the late 1990s (from USD 820 in 1999 to USD 2040 in 2010).

This dynamic, mainly located in the cities, together with the securisation of property then underway, the partial opening of the access to property for foreign investors, a protective legal framework for investors (Investment Act of 2003), low taxes and a liberal regulation framework, has attracted major regional real estate conglomerates in search of new markets, especially after the Asian crisis of 1997. Since the mid-1990s, numerous local and foreign private investments are geared toward urban real estate, mainly in Phnom Penh, with 1.7 million people in 2013 (Kingdom of Cambodia 2013), representing more than half of the urban population of Cambodia (14.3 million inhabitants in 2012, of which 20 % is urban population) (Nis.gov.kh 2015).

Dozens of real estate projects have been built since the 1990s, more than 600 buildings of more than 5 storeys, and almost 100 residential cities (*boreys*) (Fauveaud 2015), as well as three towers (OCIC Tower, Vattanac Tower, Gold Tower 42), the first of which was completed in 2008. Five major projects or satellite towns are under construction (Garden City, Grand Phnom Penh International City, Camko City, Diamond Island and Boeung Kak Project); and three are in preparation (Chruy Changvar City, Mekong Renaissance and AZ City). A new Master Plan of Phnom Penh had been realized by the Urban Affairs Office of the Municipality of Phnom Penh in 2005 with the assistance of the French cooperation (Bureau des affaires urbaines 2007) and since then, this strategic document, not yet adopted, has been used by the Municipality to guide investments, give a framework to sectoral and local master plans, or book space for large city equipments

(Huybrechts 2011). But with no adopted urban planning or urban regulation, urban projects are mainly regulated by the market in a plot by plot negotiation of building permits. These real estate projects structure a new modern vision of the future of the city and transform the urban space through the privatization of production methods and development opportunities offered by investors (Fauveaud 2013). Moreover, in return, these large investment projects support growth, integrating Phnom Penh as a secondary metropolis in regional economic dynamics, serving as an interface of the major regional cities, within the inter-urban competition (Goldblum and Franck 2007).

Finally, the acceleration of land speculation promotes rising land and property prices. Social housing demands are not met by these new constructions, access to housing is more difficult and central or pericentral land is coveted for investment, especially if they are occupied by precarious settlements. Numerous projects and quick building sites led to evictions by the market (Clerc and Rachmuhl 2004; Durand-Lasserre 2006). Also called market-driven eviction, these particular forms of displacement occur under the pressure of market forces, often with some forms of compensation to the displaced household (regardless how fair and equitable this compensation may be) and many without requiring the use of the force. It generally leads to the gentrification of the area. These projects also evoked protests of the inhabitants and the – at times – forceful government involvement in the destruction of informal settlements. Whatever the processes of eviction, the poorest people move further in the suburbs, exacerbating inequities in the access to urban resources.

The 2000s is also the end of the transitional period of land reconstruction. During the Khmer Rouge period (1975–1979), ownership was abolished and the city of Phnom Penh emptied of its population. During the socialist period of Vietnamese occupation (1979–1989), inhabitants have resettled in the city in empty houses or former public facilities, between buildings, or on public land. The land belonged to the State. The people only had the right of use and succession and had to obtain a residence permit. Private ownership was gradually reintroduced in 1989 with a new constitution and the distribution of ownership of dwellings to their occupants. The 1992 Land Law confirmed the principle of acquisitive possession (the possibility of ultimately transforming temporary possession to ownership after 5 years of peaceful, honest, public and unambiguous occupation); and the 1993 constitution enshrined the return to the market economy. Non-appropriated land remained the property of the State.

Squatters without rights emerged, especially those occupying space that, by law, could not be appropriated. They developed informal settlements on public spaces, roadsides, riverbanks and lakesides, following practices that interacted with formal practices (Clerc 2010). The 2001 Land Law marked the end of the transitional period that allowed access to ownership by occupation. The vast majority of properties, however, remained precarious, and a country-wide land registration project was set up in 2002 by the Ministry of Land Management, Urban Planning and Construction (MLMUPC), supported by the World Bank and Finnish and German cooperations (LMAP – Land Management and Administration Project). The project includes land policies and the registration of all land in Cambodia over a period of 15 years. Provisions have been introduced for poor communities in informal settlements. An implementation decree (2003) introduced social

concessions, which allow, under certain conditions, to provide plots free of charge for families who cannot afford to buy one on the market, in subdivisions made on the private property of the State.

In parallel, a policy of improving informal settlements was gradually implemented in the 1990s and early 2000s. Many neighbourhoods were upgraded with the help of international cooperation (UNDP, UN-Habitat) and the support of international networks of poor communities (ACHR – Asian Coalition for Housing Rights, SDI-Shack/Slum Dwellers International) (Clerc 2006). In 2003, the eviction and relocation of informal settlements inhabitants was officially abandoned; and the Prime Minister announced a 5-year regularization and upgrading policy of about 500 inventoried districts. This policy, however, realized without proper coordination, was hardly notified: investors wishing to invest on occupied land sometimes only discovered the government's promise once they were on the ground. In addition, land regularization of upgraded neighbourhoods was slow and the rare initiators of regularization were linked to the process of land registration.

In fact, to summarise, land and social urban policies were conflicting. By the mid-2000s, while the government displayed its resolve to act for the poorest to keep their land rights, this regularization and upgrading policy was thwarted by the land policy to attract investors that was developed in parallel. Indeed, the securitisation of the values through a land registration process and the resulting rising property values actually accelerated speculation as well as the sale by the State of its domain to investors, who were often linked to the authorities or government officials. The government thus relinquished public buildings located downtown in exchange for the construction of new facilities in the suburbs; and public land which should have been attributed to informal settlements were allocated to investors to implement large urban projects.

The government's undertaking in these incompatible land policies has given rise to some fundamental contradictions. These were managed plot by plot, by negotiation and in power relations. Any regularization underway were not fulfilled, even when the neighbourhood was already upgraded, and keeping the inhabitants on site was questioned. The arbitration was generally in favour of investors, freeing land and evicting communities. The unique land sharing project (between investors and occupiers) established in 2003 was not completed and resulted in the forced eviction of 300 families in 2012, even though the investor had already built eight of ten buildings for the relocation of 1775 families to a 2-ha site of 14 ha that had been allocated to him in the city centre. Since the 1990s, approximately 17,000 families were thus displaced in 36 relocation sites, usually flooded and unequipped, situated within a 20 km radius of the capital (Blot 2010). Cut off from their social networks and sources of income, the families (all or part) often returned to live in the city. Other than two districts (Kok Klieng 3 and Apiwath Meanchey) where relocation was negotiated and planned with the public authorities, investors and international institutions, the municipality encouraged the eviction of residents in order to realize projects. This is the case in Boenk Kak.

16.3.

The Boeung Kak, an Emblematic Area of Land Competition

Located in the city centre, next to the colonial centre and the train station, the Boeung Kak is originally a lake area of recuperated rainwater and wastewater

(Boeung means lake in Khmer). It was, however, gradually removed from the hydraulic system of urban drainage until it played only a minor role as an outlet during floods in the 1990s. Its central location and the flooding risks of its banks have often led planners to reserve this space for recreational or environmental projects: the urban planner Hébrard had foreseen a public garden in 1920, the authorities had plans for a garden in 1988 (Carrier 2007), the Cergy international workshops proposed in 2003 to make the area a large park of 10 ha next to a 25 ha lake, with the relocation on site of the 20,000 inhabitants together with a business centre, high end housing, large facilities and touristic area (Les Ateliers Internationaux de Cergy Pontoise 2003). The banks, once inalienable, were nevertheless used by the population, who had firewood collecting, grazing, fishing, and cultural rights; and they are traditionally inhabited: 177 constructions were thus identified to the west of the lake in the late nineteenth century (Pierdet 2008). In the 1930s, the area was left for houses of straw or wood, and during the construction of railways, the land was made available to railway workers (Jambert 2000). A map made from a 1971 survey shows hundreds of homes around Boeung Kak (Allaire 1971).

The land situation there remained complex. New houses were built upon the return of the inhabitants to the capital in 1979, as elsewhere on other public spaces in vacant gaps of the city, especially when the inhabitants were provisionally maintained at the gates of the city pending the entry permits. Some residents hold documents. During the strong housing crisis of the 1980s, the Council of Ministers had regularized these occupations regarded as irregular (provisional authorization) and exempted from taxes on rental housing made of plants (straw huts). These units were therefore both regular and provisional, the administration freely determining the authorized duration. But harvested land (vegetable crops and livestock) was administered in the productive agricultural sector ("family economy" sector), and dwellings built by farmers on the same plots were not associated with the regular residential sector (Carrier 2007). In 1985, about 70 families were relocated around the lake, their previous houses, behind Hospital Calmette, being turned into a recreational garden place (Suyheang 2014).

The occupation and densification of the banks accelerated in the early 1990s, with the rapid population growth of the city beginning with the restoration of the monarchy and the return of refugees from the camps in 1993. The 1992 Act prompted many persons to settle in the hope of obtaining property by acquisitive possession and encouraged those who had the possibility of getting their hands on land (military, police) to subdivide and sell, even if it was the public domain (e.g., south of Boeung Kak) (Khemro 2000). The election period of 1993 also contributed to the accelerated development of the area with promises of political recognition of informal settlements and with "sales" and allocations of public land to squatters, as was the official distribution by public authorities of public garden plots located east of the lake. Starting in 1996, the halt of evictions and the public announcement by the second Prime Minister Hun Sen that the squatters should not be evicted without receiving substantial compensation triggered the arrival of a new wave of inhabitants. In the mid-2000s, the Boeung Kak was one of the largest areas of informal settlements in the city: more than 4,000 families and 20,000 people lived on the lake or on its banks.

The planning and development projects that have emerged around Boeung Kak are representative of the swaying and contradictions of public urban action faced with the informal settlements in Phnom Penh until the early 2000s. The area has seen small-scale upgrading of these neighbourhoods since 1996, for example behind the French Embassy, in the framework of programs conducted by the Municipality with the assistance of UN-Habitat. At the same time, since 1998, a private developer has signed a lease for 70 years with the Department of Transport and Finance to develop one of the biggest projects of the city (shopping centre, financial centre and condominiums) on 10 ha of land belonging to the Railways authority, south of the lake, close to the rails. In response, residents of informal settlements located on this area (Santipheap or Railways A and Roteh Pleung B or Railways B) have proposed a social land concession and sharing, in which 25 % of the land should be retained for the relocation of 325 families. The city council approved the project in 2003, an election year. But the developer finally obtained the possibility to indemnify or relocate the inhabitants (Rabe 2005). In parallel, several new upgrading projects were conducted with UN-Habitat, in the framework of the rehabilitation of 100 poor neighbourhoods per year in the city, from 2004. But the only project application rejected came from a community located near the rails of Boeung Kak (Clerc and Rachmuhl 2008). Indeed, the negotiations for the major project now underway in the area had already begun on this date.

The Boeung Kak project is emblematic of the current attitude of the Cambodian public authorities vis-à-vis the informal settlements, which favours the production of large luxury real estate projects at the cost of their eviction. The central location of the lake, rising land prices and increased investments in land led to designing on Boeung Kak one of the five major projects currently under construction in the capital. Originally located on 133 ha (the 90 ha of the lake plus its surroundings), since reduced to about 120 ha, it includes a new business centre, residences of high standing, two towers, a shopping mall, service companies, new ministerial buildings and recreational spaces. Only 10 ha of the lake were remaining in the Shukaku initial project, in contradiction with the orientation proposed by the Master Plan, and no lake is now left in the final project, pushed by the government, and flooding have been increasing in the neighbourhoods. The project was developed in a context of multiple bypasses of the Land Law, with the support of public authorities. Since the election year 2003, the government signed an agreement for the concession of the land with the private Cambodian company, Shukaku Inc, a private company strongly linked to some public actors: its owner, a Senator advisor to the Prime Minister, and his wife, who directs the large Pheapimex group, ensure ample funding to the Cambodian People's Party. Chinese companies are the majority shareholders of the company since 2010 (Fauveaud 2013). In 2005, the Council of Ministers gave the Governor of Phnom Penh the principle of developing the Boeung Kak area (Cohre 2009).

The project was not yet public, but in 2006, when the country's land registration project (LMAP) initiated the systematic registration of property in the district of Sras Chok, where the lake is situated, inhabitants were denied their investigation and social concession request (Blot 2010) on the grounds that they lived on public property or in a "development zone"; and their claims were not taken into account. At the time, the World Bank temporarily suspended its credit due to corruption in several projects, including precisely the LMAP cadastral registration project in the

country. While the public display took place in January 2007, the Municipality almost simultaneously granted a 99-year lease to Shukaku Inc (although leases cannot legally exceed 15 years for public domain lands). The area was demarcated during the summer of 2008, transferred from the public domain of the State to the private domain of the State (despite the legal public character of lakes), and backfilling work began.

The lease provided that the fate of the inhabitants was to be processed by the company. As soon as the lease was announced, several local and foreign NGOs involved in the fight against forced evictions mobilized to defend their rights. Although the municipality began by ensuring that there would be no eviction, most families installed on the lakeside were forced to leave. A show of strength took place between associations representing families on one side and the private investor on the other, supported by the State. The first families left in August 2009, compensated or displaced to unequipped land 20 km from the capital (Cohre 2009), during which time there was an acceleration of evictions in the capital (World Bank 2011).

After much bargaining, threats, destructions and various compensation offers by the company, most of the 20,000 inhabitants were evicted between 2009 and 2011, The World Bank suspended its loans to Cambodia, waiting for a favourable outcome to be found for people with no more land after their eviction from the Boeung Kak (World Bank 2011; Fauveaud 2013). Around 800 families who refused compensation considered insufficient were allocated a 12.5 ha relocation plot onsite by a governmental decree in August 2011, but many of them were still awaiting the land title in 2014. Since then, other families have agreed to leave, but families and local activists continue to protest against the illegal privatization of the lake, against forced evictions and for the right to stay and to be compensated properly (Saveboeungkak.wordpress.com 2015).

16.4.

Conclusion

Competition for land is now a new dimension of vulnerability in informal settlements. Central urban land occupied precariously is increasingly coveted both by investors for prestigious projects, and by the people who occupy them, for upgrading with staying living on site. If the State at times acts as mediator, more often public authority implements ambiguous or even antagonistic policies, giving the preference to investors. Going in the same direction, until some regulations are adopted (it may be soon: property tax was introduced in 2012, a decree on planning regulations was adopted in 2015, the Master Plan should be approved at the end of 2015), the lack of planning regulation has given place to a market regulation. As a result, there have been more and more forced evictions of residents. These residents are sometimes resettled with titles next to employment areas, but often, they are relocated in distant suburbs on poorly or non-equipped sites, giving rise to the organisation of resistance and power relations and conflicts that are sometimes violent. The Boeung Kak is emblematic of this trend. Demonstrations of inhabitants and NGOs have led to violence and the imprisonment of activists. Carrying a modernist vision of the city and economic interests closely related to real estate investments, public authorities is giving

preference to the national and international global city actors to the detriment of the poorest urban dwellers.

Cambodia is a textbook case for the land issue. Whereas in 1989 a general redistribution of land ownership took place, in just a few years we saw informal settlements reappear, as well as a concentration of ownership in the hands of a small number of owners. At that time the State held all urban and rural land except residential plots or those for family farming. It has now surrendered a large part of its private and public domains, and the city have been divested of its common good, the public domain, to the benefit of executives and investors. Phnom Penh is now an emblematic case of the impact of liberalisation and globalisation of real estate investment on informal settlements and policies that handle them. While a social land policy was initiated in the 1990s, and the Prime Minister had promised to regularise all informal settlements in 2003, evictions resumed. Approximately 133,000 people were evicted from their homes since 1990 in Phnom Penh (Cohre 2009; Licadho 2009); and there are many more who still live under the threat of eviction in Cambodia (Fauveaud 2013). Whether for building infrastructure or for the realisation of private urban projects, the inhabitants of informal areas, who often have rights, are displaced with low compensation or resettlement in distant suburbs, and excluded from the heart of the city. Next to the Right to the City, competition for land of central and pericentral urban zones today brings to light the idea of the Right to a Place and to the Urban Centre.

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