

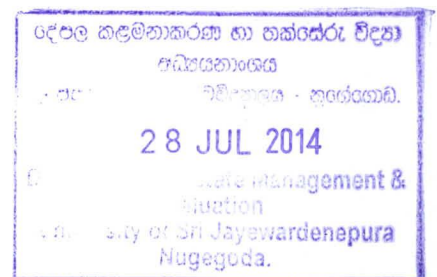
**Analysis of the Existing Property Transfer System
and Stamp Duty Procedure in Sri Lanka with Special
Reference to Gampaha District**

Jayasiri Bogahawatta

**Analysis of the Existing Property Transfer System
and Stamp Duty Procedure in Sri Lanka with Special
Reference to Gampaha District**

**Dissertation Submitted to the
University of Sri Jayewardenepura
As a Partial Fulfillment for the
Requirements of the Final Examination of the
M.Sc. in Real Estate Management and Valuation Degree**

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Student's Declaration

The work described in this dissertation was carried out under the supervision of Mr. H.M. Premathillake Senior lecturer and any report on this has not been submitted in whole or in part to any university or any other institute for another degree /examination or any other purpose.

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Index No. REMV/044


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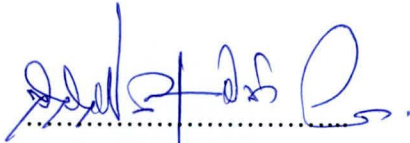
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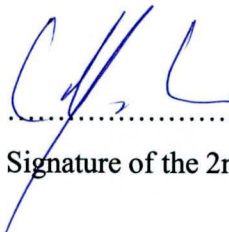
Supervisor's Declaration

Hereby, I certify that Mr. Bogahawattage Jayasiri (Registration No: GS/M.Sc./REMV/3396/08) duly completed the due corrections in the research titled "Analysis of the Existing property Transfer System and Stamp Duty Procedure in Sri Lanka with Special reference to Gampaha District" under my supervision and recommended to submission.

Also it is declared that, this final report has been completed according to the instructions and suggestions made by the board of examiners



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ACKNOWLEDGEMENT

First, I would like to take my sincere thank to my Supervisor, Mr. H.M. Premathilaka, Senior Lecturer, for necessary guidance and towards to make this assignment successful. Then to the course coordinator Prof. R.G. Ariyawansa, Ms. Janaki Edirisinghe, Senior Lecturer, Ms. Padma Weerakoone, Senior Lecturer and Ms. Nishani Wickramaarachchi, Senior Lecturer for enormous encouragement. Finally to the Department of Real Estate Management and Valuation of University of Sri Jayewardenepura, Authors and Publishers of books, journals, periodicals.

Also, I highly appreciated the help, assistance and courage given by all my family members and friends to make this research project submitted to Department Real Estate Management and Valuation of Faculty of Management - Post Graduate Studies of University of Sri Jayewardenepura as a partial fulfillment of the requirement of the Master of Science Programme 2008/2010

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Date: 07.28.2014

Abstract

Payment of property transfer tax related when real estate transaction taken place. Basically the stamp duty payment takes place when ownership of property transactions taken place. This can be either the deed of transfer or deed of gift. Literature shows that there are different type's stamp duty payments in different countries. The main purpose of this study is to analyze Existing property Transfer System and Stamp Duty Procedure and introduce possible reforms for the payment stamp duty for property rights. Stamp duty payers were analyzed whether they are satisfied for the payment of stamp duty. Looking at opportunities to maximize the public benefit government considers development opportunities. Therefore it is essential to reform stamp duty transfer cost for land transactions. There are many researchers have carried out in this thematic area. A two way approach involving a questionnaire and a structured interview was applied in this study. The questionnaire survey was focused to collect perspectives from stamp duty payers whose paid stamp duty, this amount depend on consideration cost of the deed. Unit of analysis was affected beneficiaries. The sample selected was 51 affected parties who resolved their issue during the year 2011-2012. Out of the sample of 51 affected was selected covering from the area of Gampaha District was employed for this purpose and the analysis was done based on those completed questionnaires using Statistical Package for Social Science (SPSS) computer software. 20 Structured interviews from the professionals were held to ascertain their opinions on steps whichever necessary to identify the problems of stamp duty payment and possible reforms. Findings of the study indicate that undervalue of stamp duty payment and there is a requirement of a reform for stamp duty structure for transfer of ownership of property. Detailed data were collected from 3 case studies to analyses the percentage total cost incurred during property transaction. The total cost incurred were 8.76%, 8.81% and 8.91% on consideration cost of Rs. 1,000,000/-, Rs, 1,500,000/- and 2,000,000 respectively. On average this cost was 8.82% from the total consideration amount. The key findings of this research will assist the policy makers to identify and introduce a suitable reform for stamp duty. Reducing this amount will lead to create an active property market.

Key Words: Stamp Duty, Property Transfer Tax, Deed Registration

TABLE OF CONTENTS

Acknowledgement	i
Abstract	ii
Table of Contents	iii
List if Tables	vii
List if Maps	viii
List of figures	viii
List of Appendices	viii
Abbreviations	ix

Contents

CHAPTER ONE

INTRODUCTION.....	1
1.1 Registration of Real Estate.....	4
1.2. Stamp Duty and Transfer Tax System on Property in Sri Lanka	7
1.3. Background of the Problem	8
1.4. Background and Justification of the Problem.....	12
1.5. Problem Statement.....	12
1.6. Objective	13
1.6.1. Specific Objective	14
1.7. Limitations of the Study	14
1.8. Significance of the Research	14
1.9. Scope of the Study	14
1.10. Organization and Preview of the Thesis	15

CHAPTER TWO

LITERATURE REVIEW	16
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2.1.	Introduction.....	16
2.2.	Review of Concepts and Literature.....	16
2.2.1.	Meaning of tax and characteristics of a good tax system	18
2.2.2.	Taxes on Property.....	19
2.2.3.	Stamp Duty.....	19
2.2.4.	Stamp Duty on Land Transfer	20
2.2.5.	History of the Land Transfer Laws in Sri Lanka.....	20
2.3.	Tax structure	21
2.3.1.	Direct Tax	21
2.3.2.	Indirect Tax	22
2.3.3.	Tax Concessions for Qualifying Activities	22
2.3.4.	General other concessions for BOI enterprises	23
2.3.5.	Transfer Tax	23
2.3.6.	Stamp Duty on Purchasing a Property	23
2.4.	Stamp Duty in Sri Lanka	27
2.5.	Relevant Gazette Notifications.....	27
2.5.1.	Stamp Duty Rates	27
2.5.2.	Stamp Duty Exceptions	28
2.5.3.	Chargeability	28
2.6.	Specified Instruments	28
2.7.	Mode and Time of payment of Stamp Duty	28
2.8.	Time of Payment	29
2.9.	General Exemptions.....	29
2.10.	Stamp Duty Payment	29
2.11.	Administrative Provisions	29
2.12.	Compounding the Stamp Duty	30
2.13.	Basis of Stamp Duty for Valuation	30
2.14.	Determination of Market Value in Sri Lanka	34
2.15.	Valuation Methods to Determine the Stamp Duty.....	34
2.15.1.	Comparable Sales Approach.....	34

2.15.2.	Income Capitalization Approach	35
2.15.3	Replacement Cost Approach.....	35
2.16.	Valuation Methods Applied in Sri Lanka	35
2.16.1.	Elements of Market Value	35
2.16.2.	Market Approach – Comparison Method	36
2.16.3.	Income Approach – Investment Method.....	36
2.16.4.	Developers Approach – Residual Method	37
2.16.5.	Income Approach – Profits or Accounts Method	37
2.16.6.	Cost Approach – Contractor’s Method.....	37
2.17.	Scholarly Views	38

CHAPTER THREE

AREA OF STUDY	69
3.1 Research Methodology	71
3.1.1. Sample design	71
3.1.2. Secondary data collection.....	72
3.1.3.Primary Data Collection.....	72
3.1.4. Data Analysis.....	72

CHAPTER FOUR

RESEARCH DESIGN.....	73
4.1. Conceptual Framework.....	73
4.2. Population.....	74
4.3. Sample.....	75
4.4. Data Collection	75
4.5.1. Desk Information.....	75
4.5.2. Primary Data collection	75
4.5.3. Secondary data collection.....	76
4.5.4. Statistical Method.....	76

CHAPTER FIVE

DATA ANALYSIS	78
5.1. Introduction.....	78
5.2. Analysis of Objectives.....	78
5.2.1. Percentage Appraisal Error.....	79
5.3. Operationalization of Variables.....	82
5.3.1. Perspectives of Respondents	82
5.3.2. Validation of Measurement Properties	85
5.3.3. Normality Test.....	86

CHAPTER SIX

CONCLUSIONS	100
6.1. Introduction.....	100
6.2. Conclusion	101
6.3. Recommendation and Policy Implications	107
REFERENCE.....	109
Annexure 1: Factor analysis and reliability test	113
Annexure 2 - Questionnaire - 1.....	116
Annexure 3 – Questionnaire 11	119

LIST OF TABLES

Table	Description	Page
3.1	Total Divisional Secretariat Divisions	69
3.2	Total Population in Gampaha District	70
5.1	Categories of Absolute Percentage Appraisal Errors in selected Local Authorities	79
5.2	Absolute Percentage Appraisal Errors in Divisional Secretariat Division levels	80
5.3	Total Cost as a Percentage of Consideration for Selected Transitions	81
5.4	Cross Tabulation against Groups and Grama Niladari Division	83
5.5	Cross Tabulation of Grama Niladari Division - Issue Type against Property type	83
5.6	Cross Tabulation of Property type against Issue type	85
5.7	Test Statistics – Frequencies	85
5.8	Test Statistics- Cost consideration	86
5.9	Tests of Normality-Perspectives of Respondents (Professionals and affected parties)	87
5.10	Results of independent samples- Krushkall Wallis Test	88
5.11	Group Cross tabulation of Property type against Issue type	89
5.12	Eigen Values	89
5.13	Wilks' Lambda	90
5.14	Standardized Canonical Discriminant Function Coefficients	90
5.15	Functions at Group Centroids	90
5.16	Correlations	91
5.17	Classification Results	92
5.18	Professional Response from Selected Land Registry Area	92
5.19	Test Statistics	97
5.20	Content Analysis	98

LIST OF MAPS

Map	Description	Page
3.1	Area of the Research Focus	71

LIST OF FIGURES

Map	Description	Page
5.1	Total Cost as a percentage of Consideration	82
5.2	Issue Type against Property type	84

LIST OF APPENDICES

Annexure	Description	Page
01	Factor analysis and reliability test	113
02	Questionnaire - 1	116
03	Questionnaire – 2	119

Abbreviations

AD	After Death
BC	Before Christ
CGIR	Corporate Governance and International Review
CGT	Capital Gains Tax
DT	Deed Tax
ET	Estate Tax
GPG	Global Property Guide
GST	Good and Services Tax
GT	Gift Tax
HIA	Health Impact Assessment
HMRC	Her Majesty Revenue & Customs
HT	House Tax
IT	Income Tax
IVSC	International Valuation Standards Council
OECD	Organization for Economic Corporation and Development
LA	Land Acquisition
LBTT	Land and Building Transaction Tax
LVT	Land Value Tax
LVIT	Land Value Incremental Tax
PEIT	Profit-Seeking Enterprise Income Tax
RETI	Real Estate Transparency Index
SEC	Section
ST	Stamp Tax
SDLT	Stamp Duty Land Tax
UDIA	Urban Development Impact Assessment
UK	United Kingdom
USA	United States of America
USD	United States Dollar
VAT	Value Added Tax

CHAPTER ONE

INTRODUCTION

With the effect of globalization, internationalization of property market is an unavoidable context in any country in the world. Real estate represents a significant share of the physical capital stock of the economy and it helps to generate income for other source too. Study of real estate is a very broad which includes evaluation of real estate market, characteristics of real estate, efficiencies & inefficiencies of real estate, issues related to real property market.

Real estate which is scarce natural resources plays a key role in development. Land is the foundation of all forms of human activity. It is the means of life without which human beings could never have existed and on which their continued existence and progress depend. Also land is a factor of production. For any physical development to take place there should be a land as the priority requirement. There are many proposed infrastructure development projects in the pipeline now in Sri Lanka. Much of investors' incentive for the development, maintenance and improvement of land resources is rooted in the concept of property rights. This concept involves complex of rules and procedures under which property is owned, leased, mortgaged and legally transferred to others (Premathilaka, 1998).

Since land is the base for development it should be made available for the right use at right time in the right location in right quantity at right price. Stamp duty on transfer of ownership if real estate transfers tax on the market value of the property as at date of transfer of ownership recent property transaction prices. Therefore, efficient market-based allocation of land is evidently a necessity for development and community life.

This study mainly focuses on assessment and payment of stamp duty and transfer tax at the time of transfer of ownership of real estate in Sri Lanka. The broad objective of this study is to examine the existing system of assessment and payment of stamp duty

and transfer tax at the time of transfer of ownership of real estate and the impact of land transfer cost on marketability of land.

Stamp duty is a tax that is levied on documents. Historically, this included the majority of legal documents such as cheques, receipts, military commissions, marriage licenses and land transactions. A physical stamp (a revenue stamp) had to be attached to or impressed upon the document to denote that stamp duty had been paid before the document was legally effective. More modern versions of the tax no longer require an actual stamp.

Much of investors' incentive for the development maintenance and improvements of resources is rooted in the concept of property rights. At present with 84% of total the state dominates land ownership in Sri Lanka. Agricultural land accounts for approximately 2.79 million hectares or about 43% of total land mass, of this 53% is owned by the state, but farmed by private farmers under varying tenure agreements (World Bank, 1996)

Prior to the British colonization, the whole land of the country was managed & conserved by the king. The king was recognized as the trustee of the land but not the owner of the land. After the country become a British colony, all lands become under the control of British crown. During the colonial period they introduce new real estate development including plantation, commercial developments residential property developments and development of infrastructure facilities etc. Thereafter, various changes have been experienced with effect of changing political, legal, economic and social circumstances in connection with the tenure of land and real estate. When the united front government came in to power in 1970- 1977, national economy become major changes. During the period of 07 years, two land reform Acts were passed in 1972 and 1975 that vested a more than million acres of private land with the state. Enactment of Rent Act No. 07 of 1972 and the ceiling on Housing Property Law No.1 of 1973 are some other legal impacts on the development of land & property tenure and ownership. Market system was totally inactive during the period and which discouraged private investors to invest more on landed properties.