



Credibility of institutions in Addis Ababa (Ethiopia), effects of government policies on real estate developers



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ABSTRACT

Credibility is the measure of how institutions are perceived as a result of autonomous endogenous patterns of interaction and power differences. It is not the tenure security in the sense of neo-classical economics that matters but the perceived security and whether developers have the assurance to retain the fruits of their investment. What matters in performance of institutions is not their form but their functions as it is determined temporally and spatially in terms of economic efficiency, stability and growth. Against this backdrop the paper analyzes how relevant institutions function by taking the case of real estate developers in transitional real estate markets of Addis Ababa. We will determine to what extent institutions are functional and whether the changes taking place lead to the development of more credible institutions or not. In the transition process there is ample space for autonomous endogenous patterns of interactions and transactions among economic actors and citizens. We analyze the process of changing functionalities studied to better understand the existing and changing functions of the relevant institutions, using the analytical framework developed by Ho (2014) and describe the functioning of institutions, while drawing conclusions on the role and credibility of institutions. Despite the adverse environment for real estate companies and a government crackdown on real estate developers the Ethiopian economy continued growing at more than ten per cent per year. Insecure tenure rights did not inhibit economic growth and real estate developers continued to invest.

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1. Introduction

Development with respect to real estate or property is a process of conversion (development or redevelopment) of land from one use to another (Balchin et al., 2000: 320). The developer may be defined as an entrepreneur who provides the organization and capital required to make buildings available in the anticipation of the requirements of the market in return for profit. It is the art of building real estate value by managing development risk. Value is realized by providing usable space with associated services needed so that customers can enjoy the intended benefit of the built space. A developer is a person or firm that is actively involved in the development process and takes the risks and receives the rewards of development. Like any other economic activity real estate develop-

ment deals with satisfying needs using scarce resources. This goes along with the definition given by McDonald and McMillen (2007: 279) as; “taking a parcel of land and adding improvements to produce a completed, operational property.” Real estate development is linked with specialization in the sense that a person develops land and property for sale or rent.

Enforcing property rights consist of two components – the rule (including customs and traditions in the case of customary land tenure) and its enforcement mechanism. The high competition among cities to attract foreign direct investments, the growing rate of local investment and the accompanying rapid urban growth is necessitating the move from *stable and secured property right* paradigm to *incomplete property rights* (Nicita et al., 2005) and *asymmetric property rights* (Zhang 2006). Consequently, not the tenure security in the sense of formal or informal, secured or unsecured but the perceived security and whether developers have the assurance to retain the fruits of their investment is becoming more and more important. What matters in performance of institutions is not their form (formal, secure, private) but their functions (economic efficiency, stability, growth) as it is determined temporally and spatially (Ho, 2014).

Abbreviations: AACA, Addis Ababa City Administration; EPRDF, Ethiopian Peoples' Revolutionary Democratic Front; GDP, Gross Domestic Product; ORAAMP, Office for the Revision of the Addis Ababa Master Plan; RED, Real Estate Developers/real estate developments; VAT, value added tax.

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Empirical research shows that there are circumstances in which the sovereign power (the government) adopts or co-opts the institutions developed by the community, while in other circumstances the sovereign power takes measures against such moves (Frew, 2013). We will investigate the process of changing functionality with respect to real estate developers in Addis Ababa, the capital of Ethiopia. Data sources include a survey of real estate developers carried out by the authors in the year 2009–10 with 14 real estate developers responding to questionnaires. Secondary data collected by the Land Administration and Building Permit Authority of the City Government of Addis Ababa and a private consultant are used. The authority pursued two surveys in 2009/2010 on activities of real estate developers since 1993 i.e. the year the city's lease policy came into effect.¹

2. Background

Until 1974 land was privately owned and landlords would build tenement units. Under the socialist oriented military government that caused the fall of former Ethiopian Emperor Haile Selassie all land and rental units were nationalized. No person, family or organization was allowed to obtain income from urban land or house rent. Users have been limited only to usufruct rights. Due to this the real estate development as an economic activity was aborted. This triggered a shift to a new set of actors and new systems of delivery. The new actors operated as owner-occupiers either individually or as cooperatives. The other main actor was the government, which not only acted as the provider of public infrastructure and as regulator, but was also the supplier of built up spaces.

With the overthrow of the military government by the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) in May 1991, land still remained state property, but new actors, including petty providers and real estate developers, emerged as the main actors. Ever since the Investment Proclamation No. 37/1996 was issued some investors showed interest in real estate development and started operations in the residential subsector. As a consequence of these policy changes the real estate sector became the fastest growing segment of the Ethiopian economy.

The Ethiopian Investment Agency issued licenses to 160 real estate developers up to 2009 to operate throughout the country. Macroeconomic statistics available from a private consultancy firm show that the real estate and the construction sector accounted for 14.9% of the Gross Domestic Product (GDP) in 2008/09, with the real estate sector comprising of 9.1% and construction comprising of 5.8% (Access Capital, 2010). The real estate and construction sector grew by an average of 14.1% and 10.4% per year respectively in the five years up to 2008/09. This is above the average annual growth rate of real GDP during this period which is 11.4% (Access Capital, 2010).

Also taken over a longer period (2004/05–2012/13) the rate of growth has been strong and amounted to 10.9% per year, according to World Bank (2014), while the estimate for the period 2013–2014 is 10.6%.² Nevertheless the Ethiopian real estate market still remains one characterized by a market in which the government is the sole supplier of land and the main developer of land. Institutional development, specifically the period after the 1974 revolution, has been marked by changes in which ideology, political and doctrinal considerations rather than appreciation of culture,

¹ The first round of investigative survey by the City Administration only focused on Bole Sub City and the second survey on the remaining six sub cities: Yeka, Akaki-Kaliti, Nifas Silk-Lafto, Kirkos, Kolfe-Keranyo and Lideta (the city of Addis Ababa is divided into ten sub cities). The fourth data source is a private consultant report (N = 34).

² <http://www.cnbcfrica.com/> consulted 7-1-2015

traditions, societal values and norms have played a greater role. The ideological principles of the incumbent Federal Government are based on a developmental statist view.

3. Literature review

The old, neo-classical mathematical base of the credibility theory sees credibility as the basic paradigm underlying the pricing of insurance products (Buhlmann and Alois, 2005; Herzog 2010). In this sense credibility theory applies to actuarial problems i.e. calculating the probability of accidents, such as fire, flood or loss of property and informing insurance companies how much premium they should charge for their insurance policies. It resides on two fundamental concepts 'individual risk' and 'collective' (the heterogeneous collective) and tries to solve in a rigorous way the problem of how to analyze the information obtained from these sources to arrive at the amount of the insurance premium. The expression "credibility" was originally coined for the weight given to the experience from the individual risk, when the insurer has typically little knowledge about the individual risk but quite extensive statistical information about the collective (Buhlmann and Alois, 2005; Herzog 2010).

Gabel (2000) criticized this neo-liberal perspective, which suggests that institutions can be designed by intention, strongly present in the original writings on credibility. Ho (2014) uses *credible* and *non-credible/empty* institutions (new rules that are not perceived as common), in an effort to reinvigorate the credibility concept and provide it with a new meaning, making it a tool for empirical analysis.

The credibility thesis focuses on how institutions are perceived as jointly shared rules or as common arrangements. "Credibility is a measure of how institutions are formed and perceived as a result of autonomous endogenous patterns of interactions and power differences" (Ho, 2014). Therefore, credibility can be defined as the perceived social support at a given time and space. Thus as noted by Bromley (1992: 15) property rights with regard to natural resources such as land is . . . the capacity to call upon the collective to stand behind one's claim to a benefit stream. Hence property right as institution is the result of interaction among three bodies: the right holder, the duty bearers, the right grantor or the rule enforcer as well as the institution that backs them. The right grantor can be the community in the case of tribal or traditional communities or government in modern society. Rights are "real" (credible) only when the rule enforcer that is the sovereign power recognizes and is willing to protect them; and when the duty bearers internalize the legitimacy of the claims of the right holders (Adlington et al., 2000).

However according to Ho (2014) insecure property rights are not comparable to socially contested or non-credible property rights. The credibility thesis posits that when certain institutions or property rights persist, they perform a certain function in society or a community in so doing they rally a given level of perceived support and are deemed credible by social actors or economic agents. Property rights are credible to the extent that people believe that they are not subject to arbitrary change. According to the neo-liberal theory perverse institutions, which may be insecure, in-transparent, authoritarian with unclear tenure or facilitating rent seeking would inhibit growth. However, if these institutions fulfill a certain function and their persistence points to their credibility then economic growth is still possible. It is not the form that is important, but the function. This will be investigated in the case of Addis Ababa.

As noted by Ho credibility is not about legitimacy. It is a measure of how institutions are formed and perceived as a result of autonomous endogenous patterns of interaction. By summary the tenets of credible institutions include: being generated as a

result of endogenous interactions, common (aggregate) perception, common expectations (others will act accordingly), perceived social support, fulfilling some function in a time space bound specific context. On the contrary as explained by Ho (2014: 16): “empty (non-credible) institutions are formed when powerful actors attempt to engineer social change through the implementation of new rules”. However, we find different institutions in a continuum and state of continuous influx. The consequences of these interactions depend upon the behavior of actors and the rule of interactions they develop in property right relationship.

4. Formal regulatory context

The Addis Ababa City Administration Directive on Conditions for Land Request and Authorization Services defined a real estate developer as a developer who builds houses which can accommodate 50 or more households through rental or transfer on sale. The directive among others, also limited the size of land to be requested by a developer not to exceed 20 ha if it is located in an expansion zone of the city and 5 ha in developed areas. For those developers requesting land in excess of such an amount it had to be decided by the lease board. Only condominium type housing was allowed in the developed part of the city, however if the local development plan, based on the master plan provisions, allows for villa type housing then the later component cannot exceed more than 30%. Real estate projects to be constructed in areas exceeding 5 ha needed to be phased into two. According to the directive a developer is able to request individual land holding or condominium ownership certificate, as the case might be, only for the phase he had completed. According to the Council of Ministers Regulation on Investment Incentives and Investment Areas Reserved for Domestic Investors (Regulation No. 84/2003) real estate developers are supposed to benefit from incentives in the form of simplified and transparent investment and business licensing procedures by the Ethiopian Investment Agency (EIA) or the Addis Ababa City Government Investment Agency. Proposed incentives included; communal grounds, rights of ways, etc. without fixed upper limits being exempted from lease payments, and the right to be free from lease payment of a 50 m² plot (on which only land tax was payable).

However, the Provisional City Government of Addis Ababa in its Regulation No. 20/2005 to provide land for real estate stipulated that the incorporation of an expansion area for a real estate project outside of the reserved area would be entertained by auction. With regard to the size of the villa the regulation was not clear. This was left to be determined by the developer. There were also provisions for determining the price of land for plot sizes which ranged from 250 to 2500 m². Land size for leasing for first time request by an investor to develop was limited to 25,000 m². An investor was only able to request an additional expansion of land after completion of 75% of the previous project by the same regulation the advance payment of a real estate project had been also stated to be 20% of the total lease payment. All these provisions were intended to promote economic use of urban land and regulate some irregularities observed within the real estate sector and we will analyze how they worked out in practice.

5. Characteristics of real estate developers

According to our survey results (n = 14), most of the real estate developers were established after 2005, except for the pioneer real estate developer Ayat Company which was established in 1996. Most developers are private limited companies (57%), followed by share companies (29%). The registered capital of the enterprises varies from Birr 8.1 million the smallest, to Birr 260 million the

biggest; with the majority (43%) of them ranging from Birr 8–50 million.³ 57% of the real estate developers have sister companies to work with. These sister companies are involved in diversified businesses such as general businesses, fitness centers, importers, hoteliers, furniture manufacturers, building materials suppliers, rental machinery suppliers, and construction contracting firms. The majority (43%) of the sister companies are construction companies or contractors.

It is not unusual in Addis Ababa for a contractor or an architectural and engineering consulting firm to co-own and operate real estate projects. These sister companies serve also as a source of loan finance for the construction of the real estate projects. Regarding the source of finance 78.6% of real estate respondents rely on customers' periodic payments with or without other additional sources to finance the construction of their projects. Real estate developers use modalities of payments which vary in the amount to be paid at a time and its phasing. Responding to the question on payment modalities, responses show that 64% use advanced payment plus periodic payments according to the rate of progress of the construction work. Interviews with developers and customers show that the advanced payment ranges between 20–30% and other payments would have to be made in three rounds of 25, 25, and 20%.

6. The land acquisition and development process

Acquisition of land is one of the major activities in the real estate development process. Urban land in Addis Ababa is allocated through lease contracts. The land lease system has three leasehold permit modalities, namely: auction, negotiation, and award. Respondents were asked which modality they prefer. Results of the survey show that the majority of the respondents (42.9%) prefer 'negotiation', whereas 28.6% of them prefer negotiation in combination with 'auction' and 'award'. The two groups together form 71.5% of respondents. Real estate developers believe that negotiation allows the formation of innovative project ideas on the part of the developer by selecting a specific site, while shortening land acquisition time, and avoiding throat-cutting competition in making offers which might arise from fewer numbers of plots available for tender. In Addis a lease auction is expected to be carried out once every month. However, a maximum round of three auctions was manageable by the City Administration including its sub city administrations. Though the negotiations are often criticized on the grounds of lack of transparency and accountability, 50% of the respondents believe that the advantages outweigh its shortcomings.

The data collected shows that real estate developers in Addis Ababa acquire land through various means. The first is through public leasing. The second is acquiring land plots through private leasing where a lessee potential developer transfers his/her leased land to another developer with a negotiated amount. This is usually done by settling the blocked bank account for the lease payment plus some additional amount which goes into the seller/lessors pocket. Among these individual lessors there are developers who had acquired land free of lease payment or at a nominal lease payment. Investigative reports by the City Administration disclosed that 15 out of 114 (13.2%) developers transferred their land to a third party, almost all of them in the period between March 2006 and September 2009. The third means of acquiring land for real estate projects is the use of one's own land. This land can only have been acquired through one of the following means:

³ Birr is the Ethiopian currency, at the average the exchange rate was 8.78 Birr per USD1 in 2003, 16 in September 2010 and 20 in April 2015.

1. Land allocated in the later days of the military government for investment purpose,
2. Land leased under the incumbent government for non-private residential investment
3. Land informally purchased from peasants or from other developers/investors or from other inhabitants who managed to grab urban land following the 2005 elections,
4. Land transferred from another residential real estate developer through private lease purchase, or a share company with a lease land possessor, though the latter is not necessarily a real estate developer
5. Potential developers wanting to redevelop their former plots used for own occupation or business into a multi-storey building (though they do not qualify as a real estate developer in the later sense of the meaning i.e. one who builds 50 houses and above).

Except for the fifth option, most of the above mentioned means of acquiring land would somehow involve informal land transactions.

It is important to note that it was impossible to locate most of the real estate sites on the base map of the city, although 87% of the respondents' projects were located in the urban periphery or the surrounding Oromia towns. Moreover, none of the sites were initially planned for residential real estate. Therefore, they required a change of land use and alteration of the existing pattern. Selling of land by a lessee is taken as a criminal act by the City Administration for the obvious fact that it contravenes the provision of the constitution of the Federal Democratic Republic of Ethiopia (1995).⁴

In Proclamation No. 47/75 (the Proclamation for the Nationalization of Urban Land and Extra Houses) the size of a plot for personal residential holding was limited to a maximum of 500 m². The portion of land in excess of this amount was to be expropriated and allocated to another allottee as long as the plot was divisible and able to accommodate another residence or use. However, this might not be enforced due to various reasons such as resistance based on a clientelist relationship with the enforcers or bribing them.

Additional evidence points to illegal land expansion by 82 real estate developers, in total 140 ha of land. Up to 5.8 million m² of urban land had been provided to 125 real estate developers according to the former city Mayor Kuma. However, only 18% of the slated land had been used for the intended purpose. Consequently 1.175 million m² of land has been dispossessed in a campaign of three days in the first week of November 2010.⁵ Efforts to collect unpaid lease payments and other income payable to the City Administration amounting to Birr 69.9 million is continuing. Also illegal land (180,000 m²) by Ayat Real Estate in Yeka had been dispossessed. About 125,000 m² of this was encroached and fenced land which was used to produce different building materials.⁶ Ayat had also put on sale plots with only the service quarter completed. 21 out of the 27 real estate developers operating in Yeka City expanded their land holdings illegally.⁷

This finding contradicted our assumption that regular developers would carefully follow the formal procedures since real estate

⁴ In article 40/3 it is stated that land, as one of the natural resources, is the common property of the nations, nationalities and peoples of Ethiopia and the right to ownership of land as well as natural resources is exclusively vested in the state and the peoples of Ethiopia. Land should not be subject to sale or other means of exchange.

⁵ Some developers had kept the slated land idle by fencing, or sold their slated land with only start up structures, invaded public land and have even taken bank loans using undeveloped land as collateral.

⁶ Unauthorized land amounting to 5000 m² where the real estate developer started constructing condominium housing and construction work on 50,000 m² of land transferred from another developer has been terminated and the land has also been dispossessed.

⁷ Addis Lissan, Vol. 18 No. 1633, 24 Tikmt 2003 (3rd Nov. 2010), Amharic version.

projects are formally registered investments which involve huge financial resources. It has later been made known that investigative surveys had been carried out for a year both by the City Administration and a private consultant as preparations for the 'rectifying measures' in the real estate market by the City Government of Addis Ababa. Following this the City Administration announced that it also cancelled the agreement of 34 real estate developers who had not started construction work according to their agreement. It also disclosed that the performance status of those who started construction work didn't exceed more than 16%. These actions were followed by much indignation on the part of the real estate developers and concerned professionals. The newspaper *Fortune* in its editorial critically commented on the activities of the City Administration: "It seems as if the once thriving real estate industry is on the retreat; timid and subdued by the government's crackdown. . . Businessmen and women are made to lose their properties, whether they are earned legally or otherwise, with a stroke of an administrative pen. . . Nonetheless, the government has made money from the transfers of these plots, which they claim were unconstitutional" (*Fortune*, Vol. 11, No. 550, Nov. 14, 2010, English version).

7. Assessment of performance of real estate developers

The Land Administration and Building Permit Authority of the City Government of Addis Ababa pursued two surveys in 2009/2010 on activities of real estate developers since 1993 i.e. the year the lease policy came into effect. The first round of investigative survey by the City Administration only focused on Bole Sub City and the second survey on the remaining six sub cities: Yeka, Akaki-Kaliti, Nifas Silk-Lafto, Kirkos, Kolfe-Keranyo and Lideta. In the document search, 114 records of real estate projects were found in the seven sub cities of Bole (60), Yeka (23), Akaki-Kaliti (2), Nifas Silk-Lafto (22), Kirkos (4), Kolfe-Keranyo (2) and Lideta (1).

15 real estate developers out of the 114 investment projects whose records were located had transferred their leased land to a third party. 14 of the real estate developers had transferred 38 ha of land in the period from March 2006 to September 2009. However the amount paid for thirteen of them was not stated in any of the respective records. Some developers requested an individual holding certificate just following on-ground subdivision of plots without commencing the construction work or upon completion of only the service quarter. The report also noted that five developers had borrowed from four private banks by using their leased land as collateral with only two of them having constructed 8–30 villas at 30–50% stage of performance. According to the interviews with officials of Land Administration and Building Permit Authority of the City Administration, this is in violation of the warning inscribed on the title certificate that reads: "the plot of land in this certificate cannot be used as collateral without the prior consent of the lessor." Some of the real estate developers have even acted as a mortgage guarantor for their customers' bank loan.

Based on the information from the Land Administration and Building Permit Authority of the City Administration, in total 550 ha of land had been leased for not less than 120 real estate developers until 2007/8 EFY.⁸ 47 sites having 119.7 ha of land were not yet developed. According to the respective lease agreements the construction commencement period (a period of 18 months) was over for most of them. The report noted that even those who started construction were only showing half-hearted attempts to give the impression that they had started construction work.

⁸ EFY is the Ethiopian Fiscal Year, which starts July 8 and ends July 7 of the next year.

Some real estate developers who had been given land free of lease payments or at a nominal rate, had transferred the land to a third party without developing it and succeeded to garner a huge amount of money. A single real estate developer had sold a tract of land which he was expected to develop, for Birr 12.6 million without making any improvement. Often such buyers and sellers go to the public notaries (Document Registration and Acts Office) and register the deal. Nevertheless, such contracting parties do not necessarily go to the City Administration for authorization of the transfer.

Ultimately the transferred land goes to few (1–3) high class real estate developers. The issuance of individual land titling for undeveloped land is also another concern. According to the survey results by the consultant 69.5% of the customers and 44.1% of the real estate respondents responded that legible customers had already received title certificates. 41.2% of the real estate respondents were non-respondents. Nonetheless, all the precautions which needed to be done before issuing individual land titling such as the status of the construction project, remaining lease payments, and lease period and the accompanying rights and duties were overlooked. How undeveloped land had been used as collateral was also an ambiguous aspect of the transactions; as some of the sureties were high compared to the lease price of the land in the face of the impossibility of locating some of the real estate sites on the city base map.

Factors used by the survey of the consultant to assess the credibility of the utilization of land resources by real estate developers include: keeping it fenced for long without developing it, subdividing undeveloped land and transferring it to a third person, and using land for non-permitted use. Regarding these indicators, responses of customers and real estate developers show a distinct discrepancy in which customers with a response rate ranging from 43.7 up to 47.4% responded 'yes' while the real estate developers responded 'no' with a response rate of ranging from 58.8 up to 61.8% for all the three indicators.

Stability and growth are generic goals of policies and institutions. These can be in terms of accessibility and affordability of housing, contribution to alleviate housing problems including for low income groups, better access to land and increasing the housing stock. Regarding increasing the total housing stock, the revised master plan of Addis Ababa 2003–2010 in its housing proposal projected the lion share of provision to be from the private sector and only 2.2% of the projected amount from the government. However an evaluation report on the implementation of the master plan shows about 80,236 condominium housing units were produced by the government which makes 53% of the total housing supplied. The expectation from private real estate developers was about 30,000 and what developers pledged to provide was estimated at 25,000 housing units in the plan implementation period. Actual output so far is limited to about 25% of the pledged amount or 4% of the total housing supplied. This is expressed in the responses of real estate respondents in which 71.4% concurred that the government is playing the leading role in housing provision and the government need not change its current role in housing provision. As things stand now, for a real estate developer, who depends very much on the buyers' financial capacity, providing housing for low income and the poor might be unthinkable. The effects of the crackdown for several real estate developers have been described in [Frew \(2013\)](#).

8. Credibility analysis

Results of the real estate respondents' assessment of existing proclamations/regulations pertaining to the real estate sector by their degree of contribution for the promotion/facilitation of private sector real estate development is shown in [Table 1](#). The results

are shown by the frequency count of respondents on a Likert scale, which measures the opinions of the real estate developers (RED) in ordinal terms. Responses are given in a scale of 1 (indicating high satisfaction) to 5 (indicating a high negative value). The mean value is 3 indicating qualities being acceptable.

Accordingly the first three rules i.e. the urban lease proclamation; the investment proclamations and rights of foreign nationals of Ethiopian origin on their country of origin are categorized as facilitative. The later one is taken as the most facilitative with highest mean Likert value of 2.1 (one can relate it to the emergence of the Diaspora group as a major buyer in the real estate market) while the value added tax proclamation is taken as the most non-facilitative with lowest mean Likert value of 3.6. The fact that there is only one non-respondent per regulation in the first three proclamations and an average of 4 non-respondents per regulation in the non-facilitative group i.e. # 4–#8, magnifies the unfavorable attitude to the later group of rules. Respondents are also asked in which area of the institutional framework further improvement needed to be made. [Table 2](#) shows the prioritized list based on weighted averages.

From results shown in the above [Table 2](#) and as ascertained by other surveys and studies, the institutional reform to avail loan finance is of high urgency in the development of the real estate sector in Addis Ababa. Overhauling the institutional framework to facilitate production and supply of basic building materials was identified as the second highest priority area. Operational level rules such as authorization procedures and standards together with the master plan and land use regulations are also identified as high priority institutional improvement areas. In [Table 3](#) real estate developers have assessed the role of government in the real estate development.

According to [Table 3](#), except for the use of legitimate violence, the use of police force to evict and demolish informal settlements, which was taken as acceptable indicated by mean value of 3, all mean values indicate an unfavorable assessment to a lesser or higher degree. Specifically the institutional capacity of government in terms of professional manpower, and the capacity of government in issuing appropriate (enforceable and affordable) rules and regulations, the number of plots and frequency of public auction for land lease, and conduciveness of legal rules and regulations for new entrants to join the real estate sector need to be concerns to deal with.

According to the data presented and the analysis that followed the interaction between the three actors i.e. real estate developers, city government and customers can be interpreted in terms of a lack of common perception of the rules of the game. Not only they lack common perception but there is a changing view of the provisions unilaterally by the enforcer government body on the provisions of the institutions. When the lease proclamations were framed by the government there was the intention of expanding the right of the leasehold possessor to include transfer, provide security on his right of leasehold, and use it as capital contribution to the amount of the lease payment the lessee has made. Later, the [Commission for Ethics and Anti-Corruption \(2007\)](#) expressed the opinion that, this could have been applied only to land acquired through lease auctions and not by negotiation. The response from the [City Government of Addis Ababa \(2007\)](#) admits that since the main aim of land distribution through the lease system by nominal price is to facilitate access to housing, but the transfer of land without developing it is not appropriate. However, the transfer of a leased plot to a third party even before starting the construction is possible. Referring to the government initiated condominium housing proclamation 370/1995 Art. 21.1 the declarant may conclude a contract of sale of a unit before or after the registration.

There are two institutions adapted by the real estate developers: one is related to development financing and the other with access to land. Financing development by customers upfront and

Table 1
REDS' assessment results of existing proclamations and regulations.

No	Proclamation/Regulation	Likert scale 1–5					NR	Mean values
		1	2	3	4	5		
1	Urban Lease proclamation	3	6	2	2	0	1	2.2
2	Investment proclamation	2	8	2	1	0	1	2.2
3	Rights of foreign nationals of Ethiopian origin on their country of origin	3	6	4	0	0	1	2.1
4	Regulation to provide land for real estate (Addis Ababa City Government)	1	3	0	3	2	5	3.2
5	Expropriation of land holdings for public purposes and payment of compensation proclamation	0	3	2	5	0	4	3.2
6	Proclamation to provide for property mortgaged or pledged with banks	0	3	3	0	3	5	3.3
7	Value added tax proclamation	0	2	3	3	3	3	3.6
8	Income tax proclamation	1	3	3	4	1	2	3.1

Source: Own computation on survey data (Oct. 2009–Jan. 2010).

Table 2
Prioritization for Institutional Improvement.

No	Area of institutional framework	Weighted average
1	Institutional arrangement favouring the development of credit facilities and financial (capital) markets	109
2	Institutional facilitation for the development of basic building materials like cement and reinforcement steel bars	55
3	City government authorisation procedures & standards	41
4	Master plan land use and height regulation	40
5	Procedures for the transfer of ownership from the developer to the new owners	39
6	Radical changes from government ownership of land to freehold private ownership	38
7	Land lease allocation through private land development companies	32
8	Compensation and valuation regulations	25

Source: Own computation on field survey data (Oct. 2009–Jan. 2010).

Table 3
Real estate developers' assessment of government's role.

No	Aspect	Likert scale					NR	Mean Value
		1	2	3	4	5		
1	Satisfaction on the service delivery of the City Administration	1	1	7	3	1	1	3.2
2	Conduciveness of legal rules and regulations for new entrants in the real estate sector	0	1	4	6	2	1	3.7
3	Sufficiency of number of plots and frequency of public auction for land lease	0	1	2	5	2	4	3.8
4	Role of government in promoting growth partnership in terms of breadth (quantity) and depth (strength)	0	1	6	5	1	1	3.5
5	Institutional enforcement capacity of government: in terms of professional manpower	0	1	2	6	3	2	3.9
6	Institutional enforcement capacity of government: in terms of issuing appropriate (enforceable and affordable) rules and regulations	0	0	3	6	2	3	3.9
7	Institutional enforcement capacity of government: in terms of legitimate violence e.g. use of police force to evict and demolish informal settlements	3	1	3	3	2	2	3.0

Source: Own computation on field survey data (Oct. 2009–Jan. 2010).

periodic payments and by facilitating bank loan finance has become the standard practice. The bank loan for customers is facilitated by real estate developers first by having individual holding certificate issued pre-maturely and then using it as collateral. The real estate developer provides a guarantee for the loan. Such financing is adapted from the Government initiated Integrated Housing Development Program in which the guarantee is provided by the

government. The consequence of such financing is that customers due to defaulting developers have developed the perception that they are robbed in broad day light; thus questioning the role of government in enforcing contracts.

Regarding access to land, the real estate developer, aiming at avoiding the ever increasing lease price specifically while extending an existing plot, resorted to negotiate with their neighboring real

estate developer to purchase the land adjoining their possession. This was considered as illegal practice since it is taken as contravening the provisions of the constitution. Later such extension plots were repossessed by the government. There were inconsistencies and contradictions observed in the formal rules and their enforcement methods. Such inconsistencies and loopholes in the formal rules include:

1. The decision of the Land Development and Administration Board of the City Government on transfer of real estate plots to a third party, which allowed the transfer and sale of partially finished houses and also the issuance of individual land holding certificates even if the construction is not completed (reference is made to Minutes No. 12/2005 of the Land Development Board of the Addis Ababa City Administration (AACAA) dated September 31st 2005).
2. The provision of incentives which provided land free of lease payment for developers who proposed real estate development projects which accommodate 50 m² of condominium per household targeting low income customers. As a result, some smart developers who know how to play around with the rules of the game submitted such proposals and took land which amounted to thousands of m² free of lease payment and later on transferred it to other developers for sums of millions of Birr. These developers did not even pay the normal land rent which was applicable to all former holdings or holdings exempted from lease payment. This provision on incentives was later rescinded by City Government Regulation No. 20/2005, regulation to provide land for real estates.
3. The application of the provision of the proclamation on re-enactment of urban land lease holding (Art. in 13) which allows any lease possessor to transfer his right of leasehold or obtain a loan based on it, and use it as capital contribution to the amount of the lease payment he has made. However, this was not supported by clearly detailed procedures. The enforcement of this right has faced resistance by government owned banks on the ground of priority to repossess the land in case of default. Is that the City Government (the owner of the land) who has priority or the bank (the lender) upon default of the lessee/the borrower? See [Table 4](#) for the summary of provisions/loopholes in the formal institutional framework.

The conflicting issues, according to city government officials, which contributed to inefficient use of scarce urban land and the legal provisions which allow these activities to be considered as malpractices before the crackdown on real estate developers are:

1. Transferring leased land to third party without/partial development made on land
2. Urban Land Lease Holding Proclamation No. 80/1993 Art 10/1 (Subject to Art. 7 & 9.1): Any person who acquires the right to hold urban land on lease may transfer or pledge such right or contribute it in the form of a share to the extent the rent paid.⁹
3. Issuance of individual land holding certificate
4. Minutes No. 12/2005 of the Land Development Board of AACAA (Sept 31st 2005): A lessee of land leased for real estate development can transfer his right if he wants to, even if the house is not constructed and a land holding certificate could be issued by the sub city administration in the name of the new possessor. This reinforces the above provisions. However, in the Directive for Land Request and Authorization Conditions for Real Estate Developers (Nov. 2004), a developer can only request for individ-

- ual land holding certificate or a common ownership certificate in case of condominium for the phase he has completed (Art. 5.7).
5. Land granted free of lease payment implementation
6. The Directive for Land Request and Authorization Conditions for Real Estate Developers, Preamble (Nov. 2004) makes reference to the Regulation to be issued to provide land for real estate, No. 20/2005. Despite the fact that the date of the issuance of the regulation is one year later, the directive presumes a regulation which allows to grant land free of lease charge for developers who want to be involved in economical condominium housing projects which allow access to housing specifically for low income people. However, by the time the regulation was issued it provided no such provisions.
7. Phasing and control of progress
8. Implementation Directive for Land Request and Authorizations Conditions for Real Estate Developers (Nov. 2004): The directive in its Art. 2.6 defines commencement of construction when the substructure work (i.e. foundation and backfill) is completed according to the building permit. Land holding certificate and building permit will be issued only for the first phase and liable to get the same for the second phase only after it has been ascertained that construction work of the first phase has commenced according to the [submitted] activity schedule (Art. 5.3). If the developer fails to meet the schedule he will be serviced a notice three months before the expiry of completion of the phase and might lose the land for the next phases if he fails to commence the construction (Art. 5.6).

Regarding the lease land policy, the assessment by the real estate developers as shown with a Likert scale of 2.2 indicates acceptance. It is clear from the above comparison that there was an apparent conflict between expanding meaningfully the lease right (that it is no more inferior to freehold except in its tenure being limited in time) and the desire to forbid the transfer of land through selling or exchange which allowing it might lead to contravene the constitution of the FDRE. There were also conflicting provisions among the different levels of rules. Such conflicting provisions were observed for example between the Minutes No. 12/2005 of the Land Development Board of AACAA (Sept. 31st 2005) and Implementation Directive for Land Request and Authorization Conditions for Real Estate Developers (Nov. 2004). The various provisions made by the different rules and regulations at different levels were also not consistent with the hierarchy of laws and rules. Most of the detail directives were issued before the promulgation of the regulation to provide land for real estate, Regulation No. 20/2005 of the City Government of Addis Ababa. Real estate developers have also an (unfavorable assessment) of the majority of rules pertaining to real estate sector.

The real estate developers also have an unfavorable attitude towards the role of government in institutional development and in its enforcement capacity. After going to considerable length in abiding to the provisions of the formal rules (accommodating), it seems that they finally resorted to their own arrangements when the possibility to co-produce better laws was lacking, resulting in competing norms of behavior. The early and premature issuance of individual land holding certificates facilitated by the technocrats in the City Administration and using it as a guarantee to loan, with the real estate developer playing the role of guarantor was one of such arrangements. The informal deal on adjoining land for expansion is another example. Hence it is possible to say that the real estate projects could not have been materialized without these informal arrangements. Therefore, these institutional arrangements in the part of the real estate developers have fulfilled some function however they were not always shared by the city officials.

⁹ Also the Re-enactment urban lands lease holding Proc. 272/2002 Art.13/1 (Subject to Art. 7 & 4/1).

Table 4
Summary of perceived loopholes in the formal institutional framework.

No	Action	Major Provisions of Formal rules/Administrative Decisions	
		Source	Provision
1	Transferring leased land to third party without/partial development made on land	Urban land lease holding proclamation No. 80/1993 Art. 10/1 Re-enactment urban lands lease holding Proc. 272/2002 Art.13/1	(Subject to Art. 7 & 9.1) Any person who acquires the right to hold urban land on lease may transfer or pledge such right or contribute it in the form of a share to the extent the rent paid (Subject to Art. 7 & 4.1) Any lease hold possessor may transfer, or undertake a surety on his right of leasehold; and he may also use it as a capital contribution to the amount of the lease payment he has made.
2	Issuance of individual land holding certificate	Minutes No. 12/2005 of the Land Development Board of AACA (Sept 31st 2005)	A lessee of land leased for real estate development can transfer his right if he wants to, even if the house is not constructed and a land holding certificate could be issued by the sub city administration in the name of the new possessor. This reinforces the above provisions. However in the Directive for Land Request and Authorisation Conditions for Real Estate Developers (Nov. 2004), a developer can only request for individual land holding certificate or a common ownership certificate in case of condominium for the phase he has completed (Art. 5.7).
3	Land granted free of lease payment	Implementation Directive for Land Request and Authorisation Conditions for Real Estate Developers, Preamble (Nov. 2004)	Makes reference to the Regulation to be issued to provide land for real estate, No. 20/2005. Despite the fact that the date of the issuance of the regulation is one year later, the directive presumes a regulation which allows to grant land free of lease charge for developers who want to be involved in economical condominium housing projects which allow access to housing specifically for low income people. However by the time the regulation was issued it provided no such provisions.
4	Phasing and control of progress	Implementation Directive for Land Request and Authorisation Conditions for Real Estate Developers (Nov. 2004)	The directive in its Art. 2.6 defines <i>commencement of construction</i> when the substructure work (i.e. foundation and backfill) is completed according to the building permit issued. Land holding certificate and building permit will be issued only for the first phase and liable to get the same for the second phase only after it has been ascertained that construction work of the first phase has commenced according to the [submitted] activity schedule (Art. 5.3). If the developer fails to meet the schedule he will be serviced a notice three months before the expiry of completion of the phase and might lose the land for the next phases if he fails to commence the construction (Art. 5.6).

Source: Result of review of various rules and regulations.

9. Conclusions

The process of erecting buildings to provide space employs the following key factors: land for the site, capital for purchase of the land and materials, labor to erect/construct and manage the process and the entrepreneurial talent of the property developer (Balchin et al., 2000). Our research shows that real estate developers in the city of Addis Ababa have been operating under what in a neo-classical view is regarded as an unfavorable, inefficient institutional environment, with insecure, informal and unclear property rights. However, macro-economic statistics of the Ethiopian economy demonstrate a sustained, economic growth. According to the World Bank and the International Monetary Fund (IMF), Ethiopia was one of the fastest growing economies in the world, registering over 10% economic growth from 2004 through 2012 (World Bank, 2014; IMF, 2012). An important driver of this growth came from the real estate industry. Figures provided in our study here show that the real estate and the construction sector accounted for close to 15% of the GDP in 2008/09. In the five years preceding 2008/9, the real estate and construction sector grew by an annual average of respectively over 14 and 10% (Access Capital, 2010). A clear and stable land tenure system, in place since 1996, has proven its functionality. Subsequently, the persistence of these institutions contributed to their credibility as indicated in the interviews.

What our research demonstrates is that in spite of the informality and insecurity of the institutional context, real estate developers

devised ways to access critical factors of production. For instance, this was the case for bank loans both in terms of project finance for developers and long term mortgages for buyers. Real estate developers frequently made use of upfront financing through customers' advance payments and periodic installment payments phased according to the rate of progress of construction work. Moreover, also access to land could be secured in many different ways. If an adjoining land is not demarcated or reserved for real estate use, the lease price to expand an existing project site to the adjoining land will be the highest auction price of the surrounding multiplied by a factor of 1.5 up to 5 for plot areas ranging from 250 to 2,500 m² respectively (Addis Ababa City Government Regulation to Provide Land for Real Estate, No. 20/2005).

However, rather than being involved in such costly transactions some of the real estate developers successfully found alternatives. With the green light provided by the City Administration they managed to purchase land from other real estate developers. Often such buyers and sellers go to public notaries (i.e. Document Registration and Acts Office) and register the deal, while they not necessarily turn to the City Administration for authorization of the transfer. According to survey results presented here a little under a quarter of respondents bought lease rights directly from the city administration. Close to 65% of them had somehow employed informal transactions. It is also noteworthy that a certain proportion of the real estate sites was not even located on the base map of the city.

The above, however, is not to say that credibility is equal to a situation of no conflict or without social cleavages (as argued by Ho in the introduction of this volume). Under the rapid and sustained Ethiopian growth one can also witness the potential sources of discontent and distributional conflict. For one, some real estate developers managed to make money out of land without developing it. Some of them managed to devise an informal arrangement for financing – e.g. through the use of customers' finance. Others facilitated bank loans for their customers, partly through employing informal means (i.e. the use of prematurely issued individual land certificates). Findings also show that developers were keeping leased land plots fenced for long, while some subdivided the undeveloped land and transferred it (12% of developers transferred 38 ha of land between 2006 and 09), or used the land for unpermitted use. More than 65% of the developers expanded their land illegally, amounting to 1.4 million m², while close to one fifth of the slated land had been used for the intended purpose.

It should thus come as no surprise that the stock of houses built, and under construction by private real estate developers constitute only 14% of the target set by the Office for the Revision of the Addis Ababa Master Plan (ORAAMP, 2002) i.e. only 4162 out of 30,000. In addition, incomplete contracts and systematic defaulting or breaches were concerns for customers. General opinions of customers included the need for a communal forum which include city government, developers and customers to redress damages; institutional arrangement which accommodate the role of real estate customers' cooperative groups, the need for clear demarcation of responsibility among the three groups in infrastructure provision.

In sum, the credibility of land-based institutions in Addis Ababa expressed in terms of the economic functions they performed could be seen as high after 1996, corresponding with a period of high and sustained economic growth. Despite the adverse environment for real estate companies and government crackdowns on real estate developers the Ethiopian economy continued growing at more than 10% per year. Insecure tenure rights did not inhibit economic growth. Real estate developers continued to invest showing that the informal, insecure property rights were conducive to economic growth.¹⁰ The crackdown has made the real estate developers lose some of their investments and they expressed resentment over arbitrary government interventions. The house owners, however,

were positive about the intervention of the Federal Government and economic growth and investment in housing just continued. It is illustrative of the double-sided face of the credibility of institutions.

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¹⁰ The high level committee set up under the Prime Minister Office to handle the case of Access Real Estate hints to the long term plans of the Technical Committee. It includes potential improvements for the real estate sector including ratifying the new commercial code, real estate proclamation and other related issues.