

THE REAL COSTS OF PARADISE

Landowners battling over beachfronts along Mexico

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TULUM, Mexico – One look at Mexico's Caribbean Coast and Houstonian Julianne Gustafson-Lira knew she wanted a piece of it.

Turquoise sea, white sand, balmy winds and intriguing locals. Buying property on the coast below the glitz-opolis of Cancun seemed a perfect way for Gustafson-Lira to fulfill a decades-long dream of returning to the homeland she left when she was 8 years old.

"You look at the beach and you just fall in love with it," said Gustafson-Lira, raising a soft voice to be heard above the crashing of waves 60 feet from the veranda of her second home, which is 80 miles south of Cancun. "You get seduced by it."

After having a local lawyer research the land title, Gustafson-Lira, who holds dual U.S.-Mexican citizenship, plunked down about \$40,000 two years ago on a 36-by-200 foot lot offered by a local Maya farmer. Her 19-year-old son and a friend spent a summer clearing the lot and supervising the building of a small, sturdy bungalow.

Dream fulfilled, Gustafson-Lira thought. Then her nightmare began.

Gustafson-Lira and about 30 of her neighbors now find themselves caught up in the seemingly impenetrable swamp that is Mexican law. Their titles challenged by wealthy investors who also paid for the same parcels, she and the other small landholders face years of court procedures, threats of imprisonment and stacks of legal paperwork as they attempt to keep their property.

The Tulum beach dweller's travail is mirrored across Mexico, where thou-

sands of real estate buyers find their ownership questioned as speculators and home buyers snap up seafronts and newly privatized rural lands.

That problem is especially acute along Mexico's rapidly developing coastlines, where five-star hotels and ritzy, gated communities swallow once-sleepy villages and the palm-thatched hotels that catered to the beachcomber crowd.

Along the Caribbean coast alone, U.S. consular officials are monitoring seven major disputes concerning Americans, like the one in Tulum, and hundreds more involving time-share contracts.

Amid the land grab for the dwindling pieces of paradise, many buyers, especially Americans and other foreigners, do not realize the vagaries of Mexican law or the true value of what they might see as undiscovered beachfront.

The plight of Gustafson-Lira and her neighbors closely parallels an episode two years ago in which scores of Americans lost expensive, ocean-front homes outside Ensenada, on the Pacific Coast of Baja California. Mexico's Supreme Court ruled their titles were invalid because the peasants who had sold the lots had never legally owned them.

"It's always the same problem," said one of Gustafson-Lira's neighbors, a foreigner who asked to remain anonymous.

"People come here and buy land, and they don't check the titles," he said. "Now after so many years the price of the land is so high, it's like gold. And everybody likes gold."

When Gustafson-Lira, 56, came looking to buy a lot more than two years ago, she found herself priced out of the frenetic housing market in Playa del Carmen, a ferry landing and one-time fishing village whose population has exploded from 7,000 to 100,000 people in just nine years.

Looking farther down the coast, she decided on a jungle-choked patch of beach in Tulum. The quickly growing

town is famed for its seaside Mayan ruins and its proximity to the sprawling and stunning Sian Ka'an Biosphere Reserve, one of Mexico's few remaining swaths of tropical forest.

Until recently, Tulum's coast was home to either very poor peasants or to hyper-wealthy Mexicans and foreigners. The local Maya scraped livings by fishing, growing crops or harvesting coconuts and chicle from the forest. The wealthy built tropical palaces along the forested beaches.

Starting about six years ago, many of the Maya peasants began selling off small parcels of beachfront to buyers of moderate means. Private houses and small eco-tourism lodges, most with half a dozen rooms or so, soon stood chock-a-block along the eight-mile strip from the ruins to the gates of the biosphere.

Then about 18 months ago, the wealthy investors who had paid other sellers for the same land, started pushing to take control of it, arguing that the peasants who sold to Gustafson-Lira and her neighbors never had title to the property.

The investors sent scores of "security guards" to take possession of several small lodges and, beach residents say, to intimidate the landholders into abandoning their properties. Last month, a local judge acting on a petition from the investors jailed a handful of Gustafson-Lira's neighbors, including several Mayan peasants, on charges of squatting.

Bail for some of those in jail has been set as high as \$350,000, well beyond their means. Some of the arrested men say they are being pressured either to formerly renounce their claims to the land or to put up their property as collateral during a court battle.

"There is no right or reason by which these people are there," said Juan Francisco Rivera, a Monterrey lawyer representing three of the wealthy investors. "There is no doubt that the law is on our side."

Rivera said his clients hope to build a large hotel on the beach that “will provide jobs” for the area.

The dispute hinges on whether the beachfront property was included in the land expropriated by federal authorities in 1973 to create an *ejido*, a communal farm in which families had rights to work parcels that remained in government hands.

Two men, Antonio Gonzalez Aviles of Merida and Felipe Hernandez Colli of Tulum, had been granted title to the land by the federal government in 1963. The presidential decree that created the *ejido* – pronounced a-HEE-tho – 10 years later included mention of the beachfront land, but the two private owners’ titles were never stricken from the local property registries.

Showing his registration as proof of ownership, Gonzalez Aviles, by then the sole private claimant to the property, sold parcels to various other private investors.

A landmark 1994 change to the Mexican Constitution allowed an *ejido* to privatize and sell off its land if its members decide to do so. Members of Tulum’s *ejido* began selling the beachfront property. Local lawyers and notary publics, who are required by law to validate deeds, vouched for the peasants’ ownership.

“We thought what a beautiful place, peaceful and healthy,” said Gea Ubilla, owner of an eight-room lodge a few hundred yards down the beach from Gustafson-Lira’s bungalow. “And we’ve involved ourselves in the worst problem imaginable.”

Gustafson-Lira and her neighbors base their hopes on past court rulings that hold Gonzalez Aviles’ title was invalidated by the decree creating the *ejido*. The private investors insist that an *ejido* was never granted in the parcels of beachfront in question.

The coastline between Cancun and Tulum remained relatively isolated and undeveloped until a dangerous and narrow road that ran along it was widened to four lanes during the 1990s. Since then,

dozens of large resorts serving package-tour groups have sprung up along the coast.

Land has even begun to be sold along the coast inside the Sian Ka’an Reserve, which was created in 1986 by the federal government to preserve at least one corner of the natural wealth of the coast. Developers now are selling beachfront lots beyond the southern border of the biosphere, in a zone that has been dubbed the Costa Maya.

“If you missed Cancun, if you missed Playa del Carmen, Puerto Vallarta, Acapulco and Cabo San Lucas, don’t miss this one,” reads a brochure that one real estate company gives to prospective buyers. “This train is leaving the station, and if you want a choice seat, be sure to get your ticket before the prices get out of reach.”

Now, it’s Tulum’s turn.

Some projections have the town’s current population of 12,000 multiplying to 97,000 in the next eight years. One large five-star hotel has recently opened on the beach just north of town, and residents say more are certain to come.

“The Maya Riviera is all sold out, and the only thing left is this tiny patch,” said Gea Ubilla, the eco-lodge owner. “If they continue to come and build, they are going to end eco-tourism and the biosphere. Everything.”

Margarita Leon, a Cancun lawyer who represents Ubilla and her husband in their fight to keep their lodge, said court documents show that the stretch of beach now occupied by Gustafson-Lira and her neighbors was valued by estimators to be worth \$39 million in 2000 and \$159 million last year.

“This is a super business,” Leon said. “So it’s a frenzy for the land, and everyone thinks they have the rights to it.”

Greg Hrehovcsik, 50, of Colorado, one of those jailed in the latest round of tug of war, said he was well aware of the dangers of buying *ejido* lands. Having first moved to Playa del Carmen in 1979 and owning a hotel there for 15 years,

Hrehovcsik said he learned a lot about land problems during the town’s boom.

Before he and several partners paid \$500,000 for a large piece of beachfront near Gustafson-Lira’s home several years ago, Hrehovcsik said he had its title thoroughly checked out by a lawyer in Mexico City.

Like other threatened property holders, Hrehovcsik suggested that his legal troubles stem from corruption, that Dulce Maria Balam, the state judge who has become their primary nemesis, must be in the pockets of the wealthy investors.

“It’s the age-old story,” he said, “the power of the dollar.

“Not that I am completely unaware of Mexico’s ways, but it’s a shock when they grab you and shut the door,” Hrehovcsik said in an interview in his furnace-like prison cell outside Playa del Carmen. He was released a few days later after authorities reduced his bail.

Balam, in an interview in her air-conditioned offices in Playa del Carmen’s chaotic state court building, insisted that she was acting in accordance with the law. She challenged those accusing her of corruption to prove it.

The judge also noted that she has recently jailed 10 men hired by the private investors to force Gustafson-Lira and the others off their property.

“I have to do my job,” Balam said. “It’s strange that the people who accuse me have shown no proof.”

Meanwhile, Gustafson-Lira and many of her neighbors are determined to fight to hold on to their own little patches of the tropics. They have formed a neighbors’ association and have hired lawyers. A few have even armed themselves.

“How can you expect to have foreign or American investors come to Mexico when you see what is happening in Tulum?” asked Eduardo Villarreal, 63, a Mexico City real estate broker whose one-room bungalow stands next to Gustafson-Lira’s on the beach.

“We’re going to fight for this because it is paradise,” he said.

Let the buyer beware

Acquiring property in Mexico is a matter of doing homework and hiring the right professionals, experts say.

Foreigners can own property outright in the Mexican interior, but they cannot do so within 62 miles of an international border or 31 miles of a coast. They can buy property in those areas through real estate trusts called *fideicomisos*. The bank holds the deeds but the buyers have ownership rights.

Here are some tips:

- Hire a good lawyer to oversee the transaction, which must be validated by a notary public.
- Keep in mind that real estate agents are not licensed or regulated in Mexico.
- Avoid buying property in *ejidos*, communal farms now being privatized: Their property titles are still too uncertain.

Source: Dennis John Peyton, a San Diego, Calif., lawyer licensed to practice law in Mexico and author of *How to Buy Real Estate in Mexico*.
