



Date: 7 March 2014

Notice of Registration

Request No.:RQ2014/1

Country: Uganda

Project: Improvement of Health Services Delivery at Mulago Hospital and in the City of Kampala, Uganda

1. On 14 February 2014, the Compliance Review and Mediation Unit (CRMU) received a request relating to the above mentioned project.¹ At issue is a dispute of ownership over a plot of land, in Uganda, that is currently being used to build a hospital financed by the Bank. The piece of land is alleged to have been forcibly taken over by a previous Government of Uganda without any compensation being given to the family who are now claiming to be the rightful owner of the confiscated land. The Request was submitted by three individuals. On 17 February, 2014, the Requestors provided CRMU with an addendum which includes additional background information and the chronology of ownership of the disputed plot of land. The Requestors asked for CRMU's investigation of their claim, and also to suspend the Bank financing until the disputed matter of ownership of the plot of land has been resolved.
2. Management confirmed that they have been informed about the Request and the issues raised in it.
3. On the basis of my preliminary review, the Request fulfills the requirements for registration under the IRM Rules and Procedures and in deference to the demand of the complainants, I have decided to register it.
4. Pursuant to paragraph 19, 20 and 21 of the IRM Rules, the Request was registered in the IRM Register of Requests, on **7 March, 2014**, under **No. RQ2014/1**². On the same day, the Notice of Registration of the Request was duly sent to the Requestors, the Boards of Directors, and the President of the

¹ However, the request was dated 24 February, 2014

² Some delays were caused by communication issues and translation of the documents

Bank. The Register of Requests is accessible on the Bank website: www.afdb.org/irm.

5. The Boards of Directors of the African Development Bank Group (AfDB) approved on 06/07/2011 a loan of UA 56 million to the Government of Uganda to finance the *Improvement of Health Services Delivery at Mulago Hospital and in the City of Kampala*. The Project Financing is through an African Development Fund (ADF) loan (UA 46 million) and a Nigeria Trust Fund (NTF) loan (UA 10 million).³

6. The principal objective of this project is to improve access to quality and affordable health care services for the population of the Kampala Metropolitan Area. The project will contribute to supporting the Health Sector Strategic and Investment Plan (HSSIP) thus contributing to reduction of morbidity and mortality from the major causes of the disease burden in the country. It is expected to benefit the entire national population which is estimated at 31.8 million since Mulago Hospital is the main National Referral and Teaching Hospital. Immediate project beneficiaries are estimated at three (3) million people (9.4% of the national population), the majority being women and children under the age of 15 years.⁴

7. The project duration is fifty four (54) months and is centered on three broad strategic outcomes namely: Capacity Development and System Strengthening; Revitalized Referral and Counter-referral System; and Expanded & Improved Health Services in Kampala City. The Capacity Development & Systems Strengthening component will focus on improving management and administration of health services in Mulago Hospital, the Ministry of Health and Kampala Capital City Authority (KCCA) including: provision of ICT for human resource management and financial management; supporting training of staff in leadership and management; and clinical excellence and ethics and customer care. Support will also be provided for medical education and research capacity of Mulago Hospital and Makerere University College of health sciences; and for the development of hospital governance frameworks and human resources for health performance tools. The second component focusing on the Revitalization of a Referral and Counter-referral Systems will enable the development of a National Referral Policy and System. The revised referral and ambulance system in the greater Kampala area will include the establishment of public-private partnership for management of the ambulance system, supply of ten (10) ambulances, training of Para-Medical staff, establishment of a call centre for the ambulance operations, and community sensitization on the referral

³ AfDB Project Appraisal Report (PAR), Paragraph 1.

⁴ AfDB Project Appraisal Report (PAR), Paragraph 2.5.1.

and counter-referral system. The last component, Expanding and Improving Specialized Health Services in Kampala City will focus on the development of a Master Plan for Mulago Hospital to rationalize service delivery, and improved efficiency and effectiveness; extensive rehabilitation and modernization of Lower Mulago Hospital Complex; and construction of two new general referral hospitals in Kawempe and Makindye (Kiruddu). The two general referral hospitals will have adequate provision for 24-hour emergency/trauma services and staff accommodation for critical staff managing emergencies and maternity services. The constructed and rehabilitated facilities will be provided with medical equipment, furniture, ICT network, equipment and software for patients, and administrative and financial management systems.⁵

8. The project is classified as Category 2 according to the Bank's Environmental and Social Assessment Procedures.

9. The request relates to the last component which involves the construction works to develop Kawempe and Kiruddu Health Centers located in Kampala City into referral hospitals. The complainants argue that the Kawempe project site was occupied by a fully functioning private hospital which was forcibly confiscated from the complainants' father, now deceased.

10. The request raises several issues which merit investigation by the IRM. The first is the question of whether or not the Government (borrower) has met the conditions precedent under the loan agreement for disbursement. The Project Appraisal Report (PAR)⁶ makes it clear at Paragraph 5.2.3.v (in italics) that "the Government has to have a valid title to the land, for the project to go forward at Kawempe".⁷ The borrower was supposed to provide such evidence to the Bank by 31 October 2012. Also connected to the investigation of this issue is whether a fraud had been perpetrated (e.g. false transfers of ownership) in order to provide such evidence of the title to the land.

11. With regard to resettlement, the PAR states that "the Environment and Social Impact Assessment (ESIA) has determined that there are no resettlement and land acquisition issues associated with the project".⁸ But it is unclear from the complaint whether or not any one was resettled during the course of the current project. It would therefore be of interest to verify whether the construction works involved any resettlement activities.

⁵ PAR, Paragraph 2.1.

⁶ Accessible at <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/UGANDA%20-%20Improvement%20of%20Health%20services%20delivery-%20eng.pdf>

⁷ PAR, Paragraph 5.2.3 (v).

⁸ AfDB Project Appraisal Report (PAR), Paragraph 3.2.8

12. Under the major environmental and social impacts highlighted under the Environmental and Social Management Plan (ESMP), the land on which the rehabilitation/construction activities will take place lies within the existing land allocated to the Mulago National Referral Hospital and Kiruddu and Kawempe Health Centres.⁹ The natural environment around the sites has already been considerably altered by human settlement and other anthropogenic activities. It is unclear whether any environmentally or culturally sensitive areas on or in the immediate vicinity of the project sites were affected.¹⁰

13. In addition, the ESMP further states that “regarding public consultations and disclosure requirements of the Bank, consultations were undertaken with key informants, specifically Government and local institutions, as well as with members of the general public and neighboring communities during the preparation of the Environmental Impact Statements for Lower Mulago, Kiruddu and Kawempe Hospitals.”¹¹ The ESMP states further: “In accordance with the National Environment Act of 1994, and the Environmental Impact Assessment Regulations of 1998, separate Environmental Impact Statements for the three hospitals have been submitted to the National Environment Management Authority for review and approval.”¹² These documents were deemed to be public documents. The request raises here the question of whether or not the public consultations process was extensive and adequate. Therefore, there is a need to find out why the requestors’ concern did not surface during these public consultations and whether these were done in full compliance with Bank’s applicable policies and procedures.

14. In accordance with paragraph 31 of the IRM Rules, the Bank’s Management must provide CRMU with written evidence that the Bank has, or intends to comply with the Bank’s relevant policies and procedures for this project within twenty one (21) working days, which shall be by no later than **5 April, 2014**.

15. For any future correspondence about this complaint, the Requestors, the Bank’s Management and any other interested parties shall refer to the request number **RQ2014/1** posted on the IRM Register of Requests.

16. The Requestors have been notified that all communications in connection with the Request will be sent to the address stated in the Request until another address is indicated to the CRMU.

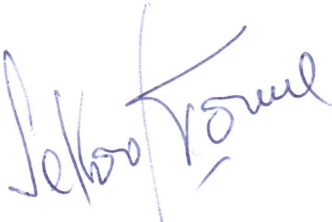
⁹.AfDB Project Environmental and Social Management Plan Summary (ESMP), P.2.

¹⁰ ESMP, P.2.

¹¹ ESMP, P.5.

¹² ESMP, P.5.

17. On the basis of the explanation above and the provision of Paragraph 20 of the IRM Rules and Procedures, the request is registered for problem-solving and/or compliance review.



Sekou Toure

Sekou Toure Director
Compliance Review and Mediation Unit

Sent to:

- (1) The Principal Requestor**
- (2) The President, African Development Bank Group**
- (3) The Boards of Directors, African Development Bank Group**

REQUEST

Requestors
Kampala – Uganda
Date: February 24 2014

Addressed to

1. To The Resident Representative - Uganda Country Office: Mr Coulibaly Medjomo.
m.c.coulibaly@afdb.org
2. The Director – Complaints Unit: Mr Toure Sekou
s.toure@afdb.org
3. CMRU complaints
complaints@afdb.org
4. Task Manager - Ms Caroline Jehu Appiah
c.jehu-appiah@afdb.org

RE: COMPLAINT ABOUT AFRICAN DEVELOPMENT BANK FUNDING A PROJECT AT PLOT 73, BLOCK 208, KAWEMPE, KYADONDO FOR A NEW HOSPITAL WHICH IS BEING BUILT ON LAND GRABBED FROM A FAMILY THAT HAS TITLE TO THE LAND

Your Ref P-UG-IBO-006

The African Development Bank is (AFDB) funding a worthy cause in Uganda to build a hospital that seeks to improve the health and welfare of the many. This project is on a piece of land which was a fully functioning private hospital which was forcibly taken over by Idi Amin in 1974, and 'gifted' to Kampala City Council (KCC), as it was then. This is a well-known fact to most Ugandans who were around then because the late Dr Sembeguya was the first African to build and operate a private hospital in Uganda.

KCC has illegally occupied and used this hospital for the last 40 years without reference or any payment to the family of the late Dr Sembeguya. We have since learnt that fraudulent officials in KCC took advantage of the death of the

late Mrs Sembeguya to crudely create fake land titles first in her name and then make transfers in other names long after her death and then sell the fake titles to KCC just before the signing of the contract with AfDB.

Kampala City Council Authority (KCCA) the successor to KCC has recently demolished the old hospital buildings and have now started to build a new hospital on this land funded by AfDB, claiming that KCCA own the land, something that needs to be stopped immediately until the question of ownership has been resolved. It transpires that the family of the late Dr Sembeguya, who was murdered by Idi Amin soldiers in 1973, has documentation to prove ownership of title.

We are aware of the Integrity and Anti-corruption policy of the African Development Bank (AfDB) and that “ the AfDB views corruption, fraud, and other sanctionable practices as highly inimical to the achievement of its mandate”.

It is my plea that you urgently investigate this gross and apparent fraud and suspend funding until the matter of ownership is resolved because if the judicial review were, as it will, confirm that the contested land belongs to the Estate of the late Dr Sembeguya, KCC would have built on our land.

We could seek a permanent injunction unless we are paid all due arrears of 41 years since KCC took over the old hospital, are recompensed for the demolished buildings, which belonged to the late Dr Sembeguya, plus the cost of the land.

Yours sincerely

The Requestors.

RE: Complaint About African Development Bank Funding A New Hospital Being Built on Land Robbed From a family in Uganda.state.

Addendum Submitted by The requestor

KCC AUTHORITY VS KAWEMPE LAND CLAIMED BY ESTATE OF LATE DR SEMBEGUYA

Background

1. The late Dr F.G Sembeguya bought this land in 1948.
The land was Block 208, plot 73 and comprised of nearly 2 acres.
This land title was created on December 1948 under Instrument No 82707, Mailo Vol 1022, folio 25. Dr Sembeguya built his home and subsequently built a hospital on it in 1954.
2. Dr Sembeguya was abducted from his hospital (the murderer's posing as patients) and murdered by Amin's men in February 1973.
Soon after his murder, Amin's men informed his wife, Mrs Sembeguya , that they wanted the hospital to be used as an army hospital. She resisted but by Feb 1974, the hospital was taken and occupied by KCC. This was common practice by Idi Amin after he took over all the Asian' property. Around the same time, Mr Bataringaya a prominent politician had been killed by Amin and his wife Mrs Bataringaya was also killed for refusing to hand over the property which Amin wanted.
So when Mrs Sembeguya was threatened by men from the State Research Bureau to hand over the hospital, she did.
3. KCC has illegally occupied this hospital for the last 40 years, despite repeated attempts to get it back by the late Mrs Sembeguya.

Legal Chronology Of The land at Kawempe

The land on which the hospital and house is situated was bought as Block 208 plot

73 in 1948 and registered in the names of Dr F.G Sembeguya.

It remained as one plot up to the time he was killed in 1973.

1. On 30/9/1974 somebody unknown subdivided Block 208 plot 73 into plots 1035 and 1036.

Plot 1035 was created under Instrument NO **75061** – dated 30/9/1974 in the

names of F.G
Sembeguya

Plot 1036 was created under instrument no **75060** - dated 30/9/1974- in the names of Mrs B. J Sembeguya

Both plots have never had titles issued for them until fraudulent ones made in 2005 and sold to KCCA.

Plot 1035 comprised the hospital and its buildings, while plot 1036 comprised of the garden and house.

KCCA now has fake titles of both plots which comprise of the Sembeguya land at Kawempe.

What happened to plot 1035?

4. We have seen a copy of a title for **plot 1035** registered in the names of KCC.

The instrument no is **75061** – dated **1974**

N.B

- a) **We have never seen any transfer forms from F.G Sembeguya to KCC**
- b) At the time of the land transferring to KCC- Block 208 Plot 73 is registered to Paulo Mukuye.
(NOT Sembeguya ?!)
- c) There are no copies showing who did these mutations.
- d) Despite KCC claiming to have title for plot 1035, in 1974, **Mrs Sembeguya never got the title for plot 1036 which comprised of her house**
- e) There are no transfer forms to back up this sale.

What happened to plot 1036?

Plot 3883

- a) Plot 1036 was subdivided into plots 3883 and 3884.

- b) Plot 3883 was created out of block 1036 – using Instrument **NO 341450** dated **30/05/2005**.

In the names of Mrs B.J Sembeguya.

- c) On 30/05/2007, Mrs B.J Sembeguya transferred this land to Dr Hasib Takuba.

PLEASE NOTE THAT Mrs B.J Sembeguya died on 01/05/2005
Plot 3883 was sold by Dr Hasib Takuba to KCC on 14/07/2009

We have seen a copy of block 3883 registered to KCC arising out of a fraudulent transfer made by Mrs Sembeguya after her death !

Plot 3884

- a) Plot 3884 (out of plot 1036) was created using Instrument **NO 70560**
(Last used in 1974 to create the original sub-division of plots 1035 and 1036 !)
- b) This plot created at the same time with plot 3883 which has an Instrument no 341450.
- c) **We have seen a copy of a title for block 208 plot 73 in the names of Paulo Mukuye.**
This from a search done 28/11/2013
- d) We suspect that the Mukuye title is the **root folder** used for fraudulently creating plots 1035 in the names of KCC.
- e) The existence of Paulo Mukuye as owing plot 73 implies that this land was never owned by Dr Sembeguya at all despite the searches all these years showing that it is owned by the Sembeguya's
- f) The title KCC has for plot 1035 must have been created after the death of Mrs Sembeguya and certainly after 7th May 2010. **We still can't prove this as KCCA have failed to produce it.**
- g) A Search on **7 May 2010** states that plot 1035 is owned by G.E Sembeguya and plot 1306 by Mrs B.J Sembeguya
But a search by **16/07/2010** showed KCC owning Plot 3883, sold to them by Dr Takuba
And plot 1035 sold to them maybe by Paulo Mukuye.
- h) The reason why they went back to such an old Instrument No is because they had now put a Paulo Mukuye as the owner of Block 208 plot 73 registered to Dr Sembeguya in 1948

- i) KCC after illegally occupying our land and hospital for 40 years , finally ‘bought it from Dr Takuba and Paulo Mukuye and demolished the old hospital buildings.

KCCA is now planning to build a new hospital on the site of the old hospital ,plus land on which the residential house resides.

CONCLUSION

1. Amin forcefully occupied the hospital of Dr F.G Sembeguya , and ‘gifted’ it to KCC in 1974. after he was murdered in 1973. KCCA are now harassing the Sembeguya family by beating up and arresting anybody protesting , as they illegally build on this land.
2. For the last **38 years** the land was still registered in the names of Sembeguya. The family made frequent searches at KCC and the land office and have copies which show that the land was still in the Sembeguya’s name until 2009.
3. Mrs Sembeguya (the widow) made repeated requests to KCC over the years to return her hospital which were ignored.
4. The main part of the hospital (plot 1035) Is purported to have been sold to KCC in 1974, but until 2010 searches at KCC were still showing that this land to belong to Sembeguya.
5. It is surprising that if KCC bought land in 1974 and got a title, that Mrs Sembeguya would not have made a title for the rest of the land which she did not sell to KCC. (plot 1036)
6. This we believe is because since the land was still in her name, Mrs Sembeguya never made the mutations which have resulted in the fraudulent sale of this land to KCC after her death.
7. It is also surprising that a ‘Paulo Mukuye’ appears as the owner of the original land title Block 208 plot 73 on a search by **28 November 2013 – just before the KCC signed the contract to build the new hospital.**
Note:
8. KCCA CANNOT SHOW WHO SOLD THEM **plot 1035 and when**
9. The transfer made by Mrs Sembeguya to Takuba is fraudulent because she was already dead.

10. The title which KCC has for plot 3883 sold by Takuba is therefore fraudulent.

11. The fact that after the brutal murder of Dr. Sembeguya his hospital was forcefully occupied by Amin, is well known by a lot of people who were around then. The hospital was a profitable going concern with operating theatres which KCC just started occupying and using.

The fake mutations which have subsequently been made have resulted in KCC buying these fake titles and demolishing the Sembeguya buildings which they have illegally occupied for 40 years.

The fact that after the brutal murder of Dr. Sembeguya his hospital was forcefully occupied by Amin, is well known by a lot of people who were around then. The hospital was a profitable going concern with operating theatres which KCC just started occupying and using.

CURRENT SITUATION

1. The Sembeguya family approached Katende, Ssempebwa and Co to try and repossess their land and property which has been forcibly occupied by KCC for the last 40 years.
2. KCCA has shown us one fake title for plot 3883 but have failed to produce the second title, claiming that they cannot find it.
3. KCCA are continuing with building on this land- despite being aware that they hold fake titles.
4. We ask that the AfDB intervenes and investigate this massive fraud

