

Seeds of Discord

THE SECRETS OF KENYA'S LAND SETTLEMENTS

BUSINESS DAILY

Thursday, November 12, 2009

Scramble for beach plots deepens squatter crisis



JOHN KAMAU reveals how the political elite disinherited millions of residents of their land, planting the seeds of discord that Coast Province is still grappling with

Seven years after Independence, President Kenyatta issued a quiet decree on acquisition of beach plots and what came to be known as second-row plots.

Only Eliud Mahihu, the then Coast Provincial Commissioner, would identify and recommend those who qualified to acquire such plots. And as was expected, nearly all his nominees were highly placed members of the political class and a few well-connected businessmen.

Having very few of their own in the right offices, the coastal communities largely missed out on the ensuing scramble for beach plots that are now worth millions of shillings. Coast Province bears the dubious distinction of having the largest number of squatters in Kenya — an anomaly that did not begin with the Kenyatta government but was only deepened by it.

How the current mechanisms, set up under the National Accord, will navigate this explosive subject at the coast remains to be seen. What is clear from the records is that the independence elite disinherited millions of coast residents of land that was potentially theirs, planting the seeds of discord that the province is still grappling with to date.

Under Mahihu's watch, old friends, senior civil servants, shrewd businessmen and farmers who had made millions out of good global coffee prices pitched tent at the coast to acquire beach plots.

From the mansions they would later build on the plots, this newly rich group dreamed of a place from where they could watch the clear horizon of the sea and, perhaps, retire in their sunset days — rich as Croesus.

The script was simple. The most important instruments that potential buyers needed were Mahihu's consent backed by Kenyatta's signature. We can now reveal how Mahihu used his position to feather his own nest — building a multi-million empire that made him one of the richest people in independent Kenya (see separate story).

The hundreds of letters that Mahihu received in the thick of the scramble for beach plots make an interesting reading. The hitherto unseen but declassified government records show how powerful individuals, the majority of them from outside Coast Province, elbowed their way into owning the beach plots. At the peak of the scramble, Kenya's economy was robust, firing at an annual growth rate of 8.3 per cent between 1969 and 1973 when Kenyatta issued the beach plot decree. Kenyatta's order was also communicated to the Commissioner



Under Mr Mahihu's watch (top right) old friends, politicians, and businessmen pitched tent at the Coast to acquire beach plots. Right, Mr Ngala. FILE



of Lands, J.A. O'Loughlin, and Geoffrey Kariithi, the permanent secretary in the Office of the President; Attorney General Charles Njonjo, and to Mr N.S. Kungu, the PS Ministry of Lands and Settlement.

The records show that the directive was clearly communicated to anyone appointed to a senior position in the Lands ministry. "I find it extremely clear on the issues involved," said Kungu, for instance, in a letter to Mahihu dated February 15, 1972. The letter was in response to an earlier one by the PC communicating the Kenyatta decree to the newly appointed PS. O'Loughlin, who had been retained as one of the expatriate civil servants, faced a tough time handling the gang around President Kenyatta whose thirst for land appeared to have no end. In one of his letters dated December 31, 1971, O'Loughlin informed one applicant for the beach plots that his case would be referred to a "higher authority". "As you are aware, all applications for approval to sales of beach plots and second row plots are now being considered very closely where the purchaser is a non-African," he wrote. What O'Loughlin did not reveal was that — from then on — he was to merely act as a rubber stamp for decisions Mahihu made on the beach plots. Kenyatta's reasons for issuing the decree are contained in a letter Mahihu wrote to one of the largest real estate agents in Malindi, T. E. Allfree. In the letter, the PC said the move aimed to "bring out the imbalance of beach ownership in Kenya's water. I am

aware that certain individuals have been talking ill of everything in Malindi recently. I am also aware that these intended buyers have also been telling people in Malindi that they should not care about the local administration and that they would get their land any way, whether the administration agrees or not."

Clear message

That letter was meant to send a clear message to real estate agents that no transaction would go on at the beach without Mahihu's signature. It was a like-it or lump-it situation. Mr Allfree had submitted 24 applications to Mahihu in a letter dated December 21, 1971. He had unsuccessfully tried to book an appointment with Mahihu. "I telephoned your secretary yesterday to enquire what time it would be convenient for you to see me, but your secretary stated that you were too busy to see me..." he said.

Perhaps to show Mr Allfree the calibre of people who he should target for the beach plot sales, Mahihu wrote back on January 18, 1972 and recommended sale of one acre plot to Cabinet minister Paul Ngei, the sale of Mrs Tailby's estate in Malindi with buildings and shops to Mr Ronald Ngala; some 80 acres of undeveloped land to a Mr John Njenga Mwangi, and a Lamu sea front plot to Mr A. Madhubuti, a former Lamu East MP. A month later, Mr Mahihu wrote to the registrar of titles in Mombasa, G.G. Ndoria, asking him to "keep a record of beach plots that are being sold... so that Africans... could be informed of these plots and their localities to enable them deal directly with the sellers."

Karume uses private firms in battle for prime land

In the political court, Njenga Karume had emerged as a powerful leader of the Gikuyu Embu and Meru Association (Gema)— an investment outfit whose political might was felt in the Kenyatta regime.

But besides leading Gema, Mr Karume was also an investor of note having built a large beer distribution network in Central Province and Nairobi. His firm, Karume Investments Limited, was one of the early beneficiaries of the beach plots that were on offer. In December 1972, the firm applied to buy 9.46 acres of land in Malindi owned by Richard Corfe and Peter Kelly. He listed the directors of the company as himself and Mrs Wariara Njenga Karume and indicated that he wanted to subdivide it into small plots. He also owned 6.19 acres in plot 480 in Nyali which he, on December 1972, transferred to Karume Investments. But not everyone who purchased the said land was listed. Some of the applications that Mahihu approved simply listed "Kenya Citizen" as the applicant.

Act in concert

Though he was known to act in concert with Karume, it was not until December 1973 that Mwai Kibaki applied for the purchase of a property worth Sh210,000 in Nyali Estate.

In the same month, Mahihu "forwarded" — meaning he did not approve — the sale of 0.5 hectares in Kikambala to Munyua Waiyaki, then deputy Speaker of the National Assembly.

Waiyaki was never in Kenyatta's inner circle, having been sympathetic to some officials of the proscribed Kenya People's Union (KPU) of Jaramogi Oginga Odinga. The sympathy was partly because of his opposition to Tom Mboya's domination of Nairobi politics. When Jonathan Njenga took over as Commissioner in May 1975, one of the first letters he got from Mahihu was an advise on how to handle beach plots. "Please note that when the application is endorsed as "forwarded" it does not imply that I have recommended the application and only the application duly endorsed with 'Recommended' is to be considered for the plot applied for. That is all Njenga needed to know regarding the allocation of beach plots.



How politicians opened up squatter land for themselves

BY JOHN KAMAU

One of the early orders that President Kenyatta issued on the post-Independence resettlements that followed the mass exodus of white settlers was that the colonial farm houses and 100 acres around them would not be allocated to squatters.

It would be carved out from the large tracks of land that the colonialists owned and sold separately as prime property in what came to be popularly known as the Z-plots. That decree opened yet another front in the nationwide intra-elite scramble for land that rapidly derailed the resettlement plan agreed with the British government in the negotiations that preceded independence.

Once a window was open for politicians and top businessmen to enter the fray, there was no limit to how much land they carved out of the schemes — leaving thousands of deserving squatters without land. In the Z-plots, once again the seeds of discord were planted in the subject of land ownership that Kenya is now being forced to confront under Agenda Four of the National Accord signed after last year's post-election turmoil.

Records of land transactions that followed the exit of colonial settlers show how politicians and senior civil servants rode on Kenyatta's order to appropriate prime property left behind by white farmers, relegating the agenda of squatter resettlement.

It was ministers such as Julius Gikonyo Kiano of Commerce and Industry who set the ball rolling. On April 23, 1965, Dr Kiano wrote a confidential letter to Lands PS Peter Shiyuka asking to be allocated a farm house in Dundori that previously belonged to a Mr Fitzmaurice, a white settler.

In his letter, the minister expressed interest in the "main house, the guest house and dairy premises together with approximately 100 acres around it in accordance with your settlement regulations and practices."

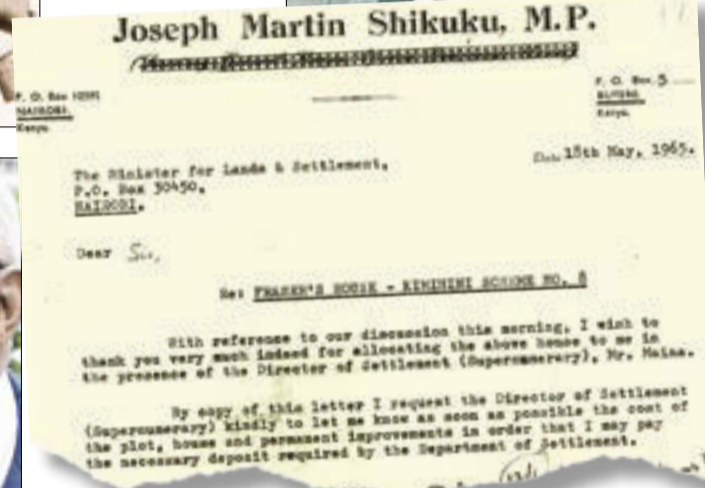
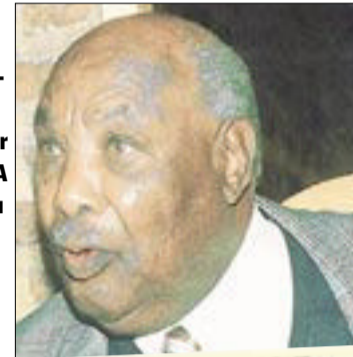
Good agriculture

The idea, according to official documents, was to settle poor farmers on the schemes alongside some prominent people from whom they would "learn" good agricultural practices. Among the top politicians who rushed to acquire land under the Z-Plots plan was former President Daniel Moi — then Minister for Home Affairs. In 1966, Moi applied for former white settler Gunson's House and the 100 acres around it. The property was located within Perker Scheme in Eldama Ravine and had initially been earmarked as a State Lodge.

In his letter to Mr Shiyuka, Moi argued that "most MPs and other prominent people have bought 100 acre plots with houses" placing his request in line



Clockwise from left: Daniel arap Moi, Peter Shiyukah, Maina Wanjigi, Jackson Angaine, Martin Shikuku, and Dr Gikonyo Kiano. Right: A letter from Mr Shikuku thanking the Lands minister upon allocation on the Kiminini scheme.



with "the common practice": "I do not know how many acres are there. All I know is that the value of the land surrounding this house is very poor and I would like to buy it so that I can keep a few cattle on it," wrote Moi.

Lands minister Jackson Angaine asked the Director of Settlement to "demarcate 100 acres to make the property more attractive". But for the politicians, it was not enough that they were being allowed to acquire prime property under the Z-Plots plan. It soon became prudent to spread the opportunities to their kin and associates, squeezing squatters even further.

Dr Kiano had, for instance, clearly indicated that he would not settle on the farm but "would like to put my sister Mrs Penina Waithira, as a permanent occupant." Interestingly, the British government which had loaned the Kenya government money to purchase the farms for the landless knew nothing about the Z-Plots. Not until May 1965 when the High Commission started secret enquiries on the matter.

Asked by the PS to comment on the application, Agricultural officer D.J. Winter wrote: "Dr Kiano's name is registered and there are also a number of other applicants. These names, if we follow correct procedure, will be put before a Selection Committee." He also scribbled in a red biro-pen: PS, you may wish to ask our minister (Jackson Angaine) whether he wants to direct in

respect of Dr Kiano's application." Upon receiving the note on May 12, 1965, Angaine ordered that the house and 100 acres around it be allocated to Dr Kiano. As a result, the Director Settlements, J.W. Maina, issued an order directing Mr Winter "to prepare the documents in favour of Dr Kiano... In future when ministerial directions have been given on these 100 acre plots, accept such directives as over-riding," Mr Maina added.

Irregular allocations

More candidates were to follow suit making the irregular allocations the norm of the programme. On the morning of May 18, 1965, Martin Shikuku, then MP for Butere who had only a few months earlier defected to Kanu, went to Angaine's office. His mission was to get the minister's approval for Mr Fraser's House in Kiminini Scheme. He succeeded.

On returning to his office, Shikuku wrote to thank the minister. "I wish to thank you for allocating Fraser's house to me in the presence of the director of settlements, Mr Maina."

These were classic examples of how Cabinet ministers, politicians and senior civil servants acquired property at a time when the government was apparently struggling to find land to settle squatters and the landless. When Kenyatta issued the Z-Plots decree, details on how applicants would be

vetted were left to the relevant ministries to craft. That offered the officials a chance to confer enormous power and authority on junior settlement officers. Besides, the provincial administration appeared to have enormous authority in vetting the applicants and by April 1965, the area settlement controller for central province, R.B. Kirkwood, wrote asking for a procedure to be set for the disposal of the 100 acre Z-Plots since the Cabinet or rather Kenyatta had not done so.

But the Cabinet was by then only grappling with how to accommodate the 100 acre Z-Plots into the World Bank funded Million Acre Scheme — which was an illegality. It had ordered that a paper be prepared proposing that the final choice of settlers on the project be transferred to the minister — from the provincial councils. That would pave the way for politically-correct individuals to benefit from the Million Acre Scheme funds without having to go through a similar process as the landless.

There was also the case of ministers and politicians going directly to Angaine and piling pressure on the Director of Settlements as happened in the case of Dr Kiano and Mr Shikuku.

So scandalous were the sales of these houses that when the UK government appointed a commission in July 1966 to investigate the Million-Acre Scheme, it singled out as a "sorry

picture" the entire programme. Prof B. Van Arkadie, a Yale University professor and an adviser to the British Ministry of Overseas Development, chaired the commission. In the report, which was kept at the secret registry at the Ministry of Lands and Settlement, the Arkadie Commission said that overall "what we saw was discouraging. A striking feature of these Z-Plots was the fact that many of the owners are not living on them or developing them in any way." The commission had been given a list of 118 owners of the plots and reported that "a cursory glance shows that many are owned by ministers, MPs, ambassadors, permanent secretaries, provincial commissioners, civil servants and prominent national personalities." It concluded that failure to develop the plots was setting a bad example and observed that the owners

were also the single largest group of loan defaulters. "Loan repayment for this group of farms is worse than on any other type of settlement plot, the complete opposite of what was reasonable to expect," said the report.

Live on their farms

The owners also refused to join the local co-operative societies and instead set up limited companies to manage their farms making it "difficult" for the settlement officers to deal with them or to get their arrears.

It recommended that in future Z-plots "should be sold to people who will regularly live on their farms...". It also recommended that the ceiling of 100 acres be sliced to 50 acres. By 1966 some 66 personalities had not been billed at all for the Z-Plots — meaning that they had acquired the land for free. A trustees meeting held in September 1965 suggested that an attachment should be sought on the salaries of the MPs but this was not followed.

The Arkadie Commission said they saw no "intrinsic reason why the houses should be sold together with 100 acres of land. The 118 Z-plots meant that some 11,800 acres which could have accommodated more than 1,000 families on a 10 acre piece of land were disinherited by the political scheme.

It can now be noted that the allocation of Z-Plots was a political exercise: "Ask Mr (T.) Okello-Odongo (Assistant Minister for Finance) to indicate the plot he wants me to allocate him," wrote Angaine after Odongo asked if there was any such Z-Plot in either Muhoroni or Koru.

The Director of Settlements (Wanjigi Maina) suggested that Odongo "would have to go and visit the area and choose the plot he wanted. We dare not do it for him," he wrote.

Tomorrow:
Read how the late Jomo Kenyatta acquired beach plots