

## ATHI RIVER : CHECK TITLE BEFORE BUYING

Posted on Aug 15, Posted by [Mwathane](#) Category [Land Purchase](#)

### Conmen taking advantage of rush for residential land/property

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clearly not theirs and proceed to subdivide and sell it to unsuspecting buyers, which are most worrying.

### **Athi River prime for investment but beware conmen**

Athi River, approximately 30 kilometers from Nairobi City and an easy drive when traffic is low, provides an excellent opportunity for real estate development. Athi River, surrounded by large swathes of undeveloped land, is largely cosmopolitan, making it ideal for those in search of land for owner-occupied homes. Athi River has also lately attracted real estate developers keen in developing high rise rental blocks of flats or gated estates for large numbers of house owners. This is innovative and should be encouraged to meet our large housing demand. But Athi River has also experienced disproportionately high numbers of false land agents in recent years, hence undermining its prime opportunity for real estate investments. It is for this reason that Athi River perhaps became the first urban center in the country to have a high level task force appointed to investigate cases of irregular appropriation of public land and the associated squatter problem.

A while back, local dailies profiled some of the recommendations of the task force. But I reiterate here the need for investor caution given the weight of the recommendations. Ignorance will not be good defence in the face of lost finance for any corporate or individual investor. A rider to the introduction of the summary of findings is for instance most informative and should be the basis of decision making by those already affected or those who seek to invest.

### **No constitutional protection to illegally acquired property**

It says this of those who may have knowingly taken over or unknowingly bought and developed public land. “**Section 40** of the Constitution of Kenya does not confer constitutional protection to any property that has been acquired unlawfully. The legal consequence of this provision is that illegally acquired public or private land is not constitutionally protected. Under this provision, the government may repossess all illegally/irregularly allocated public land without prompt payment in full or just compensation. However, the Constitution is silent on cases where the illegally allocated public land has been transferred to a third party who has no knowledge of the illegality at the time of transfer”.

## **Task force report has grave consequences to those affected**

On the above basis, the report makes recommendations with grave consequences to anyone who may have bought or squatted on public land around Athi River. The report makes specific recommendations for the eviction of those who have illegally invaded land belonging to State Corporations around Athi River, calling for the restoration of such land to the respective State Agencies. This includes land owned by:

- East African Portland Cement Company Ltd
- Numerical Machining Complex
- National Social Security Fund
- National Housing Corporation
- Kenya Airports Authority
- Meat Training Institute

Other recommendations on land belonging to private companies and individuals that has suffered invasion or illegal subdivision and sales are also detailed.

But in the context cited above, it is the public land illegally squatted or subdivided and sold that spell immediate consequences. Anyone conned into buying such land must know that they for sure are “sinking good money into a bad buy”. Those in occupation must read the early tell tale signs and mind any further investments on such land since it is most likely that the State will one day push for the restoration of all the affected land to the respective public institutions. They should therefore begin to make strategic decisions to minimize loses.

## **Prudent to do background checks before investing**

Those who may have been led into unknowingly investing on land belonging to other people also have reasons for concern since any titles or letters of allotment they hold can be invalidated through court processes in due course. In sum, investors keen on land in Athi River must do more to check back the original titles to parcels of land offered for sale. It is likely that someone or some records held in the duly authorized public offices may reveal the correct ownership. It may also help to thoroughly check out the registration status and history of companies and agencies that offer land for sale in Athi River, including checking out the arrangements or transactions through which they acquired the pertinent titles.

In the circumstances of the mass deception that has visited Athi River, it will be imprudent of any corporate or individual investor to be rushed into buying property in Athi River without such background checks.

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