

Review procedure for the replacement of lost land ownership documents

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A while back, a friend of mine identified a plot for purchase and proceeded to draw up the necessary agreements with the owner, whom, for this discussion, we shall call Sungura Mjaja. All the due diligence was done; a survey plan was bought, a field visit was made, an official search conducted and the identity card of the seller checked out for conformity with the search details.

But when the lawyer lodged the documents for registration in Ardhi House, it was discovered that there was a parallel set of documents, lodged by a different law firm, purportedly from yet another Sungura Mjaja, transferring the same plot to a different buyer. We quickly visited the offices of the lawyer moving the parallel registration. He was just as surprised; indeed, he disbelieved our story till he confirmed with his colleague. It then dawned on us all that one of the sellers had to be a con. We called in the police who laid a trap and, once caught and challenged, the Sungura who was selling to my friend owned up. He was the fake. Indeed, he went on to produce his real national identity card which carried a totally different name. He held a fraudulent title, prepared in the name of the real owner, to facilitate a fraudulent sale. The matter was then left to the police and courts. But how does this kind of thing happen?

Sungura Mjaja above had obtained a fake identity card in the name of the real plot owner. He knew the physical location of the plot and that the owner hardly ever visited. Being undeveloped and strategically situated, the plot would attract quick buyers. He had proceeded to obtain its land reference details which he subsequently used to print a fake parallel title. He was sure that since prospective buyers would be unlikely to know the real owner, they'd be easily duped the moment he paraded a title and an identity card in the name of Sungura Mjaja, whom he had confirmed to be the owner as per records held in the Lands office. Official searches by interested parties would only confirm these details.

The Lands offices have since upped the game. Security features on new title deeds have been enhanced, presenting a much more difficult challenge for fraudsters. Indeed, land owners are today required to provide passport photographs to support the registration or transfer of property. This will greatly help forwards. But millions of ownership documents held in Land offices countrywide belong to the old regime where images of the owners aren't on record. This presents an opportunity for a new generation of fraudsters who obtain titles officially from Land Registries in broad daylight. But how?

They've known that all that's required for Lands offices to have a title replaced when lost or destroyed, say through a fire or floods, is some simple indemnity. So they scout for developed properties or vacant land where owners live far away, abroad or are deceased, leaving the properties prone to a replication of titles. Armed with the details of the registered owner, they obtain fake identity cards in the owner's names like Sungura had done. This helps them to pose as the real owners. They then obtain police abstracts for loss of title, swear affidavits with some lawyer then present these to Land Registries for issuance of replacement titles. These police abstracts and affidavits, meant to indemnify the registry for the replacement of title, are used as the basis of filing Gazette Notices. On expiry of the stipulated 60 day statutory period without objection, new titles are issued in their favour. Using such titles, the properties are then easily sold by the con cartels while owners remain innocently in possession of original documents. Large parcels of vacant land are at times subdivided to enhance returns. This happens for properties in rural and urban areas. It's a terrible threat to property rights.

Now that government knows that this happens, the procedure should be revisited and tightened. Advertisements for loss of title deeds could for instance be made through the office of local administrators and checked out with neighbours. Physical verification visits could be made too. This would perhaps smoke out the real owners and make it harder for anyone to claim or sell property fraudulently. And by the way, property buyers should nowadays verify the authenticity of identity cards with the National Registration Bureau.

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