

Steps to avoiding land title fraud

The Report of the Commission of Inquiry into the illegal/irregular allocation of public land was a stinging indictment of the ease with which public land has irregularly allocated.

In explaining the land grabbing phenomenon, the Report noted that public land has been variously allocated for political patronage purposes, either as reward or in return for political loyalty. Further, the Report confirmed that public land has been the subject of outright plunder through speculation, resulting in the unjust enrichment of a few people at great expense to the general welfare of the public.

Remarkably, the Report also noted that public land has been allocated by officers and other personalities without legal authority to allocate it, including chiefs, district officers, district commissioners, provincial commissioners, and even members of Parliament.

As a result of the publication of the Report, Kenyans are now aware, more than ever before, of the danger of being offered public land or other land that is otherwise not available for purchase.

Land title fraud can occur in many ways. A few of these are:

1. where a fraudster manages to have a duplicate title issued, when in fact the original is still in existence. This type of fraud usually occurs with the cooperation of unethical officers at the land registries.
2. where unscrupulous persons arrange for the issuance of title documents on land that is otherwise not available for sale. In this category shall be found title documents issued on road reserves, forests, environmentally fragile land, land belonging to public bodies such as schools, airports, hospitals, prisons, courts and so on.
3. where unscrupulous persons offer land for purchase on the strength of forged title documents.
4. where dishonest persons take advantage of gullible naive purchasers and proceed to offer them land for purchase in the absence of any title documents
5. where land is repossessed and reallocated by land authorities, on fictitious grounds eg failure to pay rates, when in fact the payment of rates is up to date.
6. purported sale of land by unscrupulous persons posing as auctioneers, when in fact the targeted land is not on sale
7. purported sale of land owned by absentee landlords, by unscrupulous persons

8. forgery of transfer documents to effect the sale of land by unscrupulous persons
9. connivance of land officers with unscrupulous persons permitting the encroachment of portions of land legitimately belonging to someone else.
10. sale of land during the dry season without informing prospective purchasers that the land offered for sale is normally swampy and uninhabitable during the rainy season

There are a number of tips that may assist members of the public to protect themselves from falling victim to land title fraud. A prospective land purchaser should:

1. It is most prudent and wise to hire a registered Advocate to act on their behalf in the land transaction, as the acquisition of land is a technical legal process. No matter what you may hear on the grapevine, an Advocate from a reputable law firm shall be able to give valuable guidance which shall assist the prospective purchaser to avoid the legal quagmires that land transactions involve. The expense of hiring an Advocate will be worthwhile.
2. It is not wise to purchase land without having physically inspected it.
3. It is also useful to talk to some of the neighbours in the vicinity of the land on offer, in order to confirm that the purported seller is in fact the owner.
4. Some due diligence conducted by the prospective purchaser may also reveal whether there are any disputes touching on the land on offer, e.g. the land is claimed by a neighbouring school or other public institution.
5. It is not advisable to purchase land that does not have any title documents.
6. It is advisable to meet the actual owner of land and not merely his purported agent.
7. It is prudent to pay attention to your gut feeling. When a deal sounds too good, it probably is too good to be authentic.
8. Consult a reputable valuer to establish a fair market value for the parcel of land on offer. Property offered for sale at throw away prices and in a great hurry may not always be genuine.

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