

Railways retirees in long wait for fortune change

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Joseph Khayo Akhoko at his home in Namasoli village in Burete Kakamega County. Mr Akhoko who retired in 1985 is sickly and unable to afford treatment. PHOTO| COURTESY IPTC information: Date Created:

In Summary

- Documents seen by Daily Nation showed that the Nairobi City County government was claiming amounts of up to Sh8,544,193,139.00 in unpaid land rates.
- These are land parcels located in Matumbato, Muthurwa, Railways Club, Ngong Road, Hurlingham, Good Shed, Landmawe and Ngara estate in Nairobi.
- The Nairobi City County (NCC) government had computed the 'accrued' land rates as from the days of the defunct former East African Railways Corporation.

The availability of sizeable land in prime locations in Nairobi and major towns in the country is one of the headaches facing affordable housing in the Big Four Agenda.

- It is interesting how the value of the pensioners land and property does not appreciate, even when property prices in Nairobi have tripled in the last five years.

The government is targeting land from excess land holdings by corporations and parastatals.

Among the asset-rich corporations is the Kenya Railways Corporation whose Sh31 billion-rich Kenya Railways Staff Retirement Scheme (KRSBS) owns prime land in Nairobi, which includes 139 acres in Makongeni which has been sought for the affordable housing agenda.

The scheme too has another 42 acres in Ngara, 20 acres in Landmawe and some 35 acres remaining in Muthurwa. At Goodshed (Easy Coach area) there is eight acres, and another eight acres at the Kenya Railways headquarters. A whopping 11 acres are in Matumbato in Upper Hill and 18 acres at the Kenya Railways Club.

Still inn Upper Hill, right opposite British High Commission the scheme had a total of 8.9 acres, which has been partially sold. In Hurlingham area, the scheme has 1/2 acre parcel and a few other parcels of land along Ngong Road.

AFFORDABLE HOUSING

Speaking in Nairobi, Henry Wamukota Toili, the national secretary of the Former Railway Workers Association (FOKERAWA), the umbrella body for the Kenya Railways retirees, said that the parcels of land within the city belonging to the Kenya Railways Staff Retirement Scheme (KRSBS) are key to the realisation of affordable housing.

"This very fact that our land is prime and at the centre of affordable housing project has attracted prominent people who now want to defraud retirees the value that comes with it," said Mr Toili.

Already, the urban renewal housing project has expressed interest in land in Landmawe, the remaining 30 acres in Muthurwa, a portion of Kenya Railways headquarters and the entire Easy Coach area, said James Kanyeki, secretary general of the Former Kenya Railway Workers Association.

City Hall's urban regeneration programme targets between 10,000 and 12,000 housing units aimed at providing decent and affordable housing to Nairobi residents.

"We have held meetings with the county government and it is supposed to compensate us. But we do not want this compensation to pass through our corporate trustee Corporate and Pension Trust Services Ltd, who has run down our scheme," Mr Kanyeki added.

"In August 2018, the retirees accused the Nairobi City County government and the sole corporate trustee, Corporate and Pension Trust Services Ltd of hatching a scheme to possess 10 of their properties in 'accrued' land rates," said Mr Toili.

UNPAID LAND RATES

Documents seen by *Daily Nation* showed that the Nairobi City County government was claiming amounts of up to Sh8,544,193,139.00 in unpaid land rates.

These are land parcels located in Matumbato, Muthurwa, Railways Club, Ngong Road, Hurlingham, Good Shed, Landmawe and Ngara estate in Nairobi.

The Nairobi City County (NCC) government had computed the 'accrued' land rates as from the days of the defunct former East African Railways Corporation, which was operational before independence.

"If at all we are to pay, we should only pay for the rates as from October 2006 when the Kenya Railways Staff Retirement Scheme (KRSBS) was constituted," said Mr Kanyeki.

The "agreement" signed in February 2018, between the Kenya Urban Roads Authority (KURA), the trustees of the Kenya Railways Staff Retirement Scheme (KRSBS) and the Nairobi City County government detailed how the 10 land parcels in Nairobi were to be swapped.

According to the "agreement" seen by *Daily Nation*, the corporate trustee claimed to have held several meetings and given relevant approval for the Scheme to offer the land to settle the outstanding statutory debt. But the pensioners protested, distancing themselves from the agreement.

“This agreement is foreign to us and as pensioners, we treat it as illegal and fraudulent. We have not met with our corporate trustee since 2014,” said Mr Toili.

Swapping of the land for the accrued land rates would have seen the pensioners lose any compensation that they expect from the government in the Big Four Agenda affordable housing.

“Those claiming to swap our land have their eyes on the Big Four Agenda on affordable housing. They know that the parcels would be well-compensated,” said Mr Toili.



Kenya Railways and World Bank delegation visits some of 9005 housing units in Makadara to access the progress of construction. The units will be used to relocate people along the railway line buffer zone. PHOTO| JEFF ANGOTE

The swap seems to have hit a snag after officials of the Former Kenya Railways Workers Association (FOKERAWA) wrote an appeal to the Ethics and Anti-Corruption Commission (EACC), the Director of Criminal Investigations and the Director of Public Prosecution (DPP) to act on what they termed as mega corruption in the management of their scheme and secure the Sh31 billion scheme from its imminent collapse.

Already, the DCI, DPP, EACC and the PS Housing has responded to the officials over the matter. “It will give hope to pensioners if they can gather sufficient evidence to sustain a court process,” said Mr Toili.

At the recent AGM held on September 28, 2018, Mr James Olubayi, the chairman of Corporate and Pension Trust Services Ltd informed the pensioners that the Nairobi County government had revised the accrued land rates to Sh1.5 billion.

“He also added that both NCC and KURA are supposed to pay members Sh300 million. They have contracted a pensioner to pursue the payment without disclosure on how much he is being paid,” said Mr Kanyeki.

The pensioners also sought to know the legality of the sole corporate trustee, Corporate and Pension Trust Services Ltd. Corporate Trust Pension Services Ltd was appointed to manage the KRSRBS on June 29, 2012 and their three-year term lapsed in June 2015.

This term was again extended up until June 2018, as per by the law, said Mr Kanyeki. The RBA Act requires that sole corporate trustees only manage a pension scheme for three years after which their term can be extended for only three years by the members through an election.

“Corporate Trust Pension Services Ltd is operating illegally and they should be out of the office given the manner in which they have run down our pension scheme. We are still lost as to why RBA would still want them on board,” said Mr Kanyeki.

NO PENSION

This is the fourth month, and the second time in 2018 the retirees are going without pension, yet at the AGM held last month, Mr Olubayi promised that they will be paid within a week.

“This is despite 0.71 acres of land on Ngong Road having been sold off at Sh210 million to pay pension arrears,” said Mr Toili.

A report done by Retirement Benefits Authority in 2010 found wanton mismanagement of the scheme property as pensioners went for months without pay.

“The illiquid assets, mainly land and buildings transferred to the pension by the sponsor had serious encumbrances such as absence of title deeds. There have been series of complaints reported to the Authority and even the Ministry of Finance from

the pensioners related majorly to non-payment of pension, misappropriation of scheme assets, abuse of office and other governance gaps,” RBA wrote in 2010.

The scheme was found to be running on high expenses with no budget approvals from the board of trustees. The scheme was also spending Sh19 million yearly to cover for bank charges to process pension.

Eight years on, most of the properties given to the scheme have been disposed at a throw away price or ended up in lengthy and expensive court battles further dimming prospects of any yields for the retirees.

Records obtained show that in 2014 and in 2015, the sole corporate trustee paid Sh172 million and Sh102 million in legal fees.

“These payments should be investigated since pensioners are not represented in any way at the decision making level,” said Mr Kanyeki.

QUESTIONABLE

Audited accounts of the Kenya Railways Staff Retirement Benefits scheme as at June 2017 show that the total amount of benefits paid to members was Sh404,732 million, while the administration expenses amounted to Sh932,188 million.

“We do not even know how much they pay themselves, yet payment to the corporate trustee should be set by the members,” said Mr Kahura, a board member of FOKERAWA.

It is questionable whether the scheme’s management follows provisions in the Public Procurement and Asset Disposal Act.

The audited accounts show that most of the property sold always goes to the lowest bidder, and payment is made beyond the 90-days procurement rule.

Of interest is how some of the property changed hands at the negotiating table when a buyer (lowest bidder) again sold it to the highest bidder before the sitting dispersed.

Still in 2012, the 2.5 acres Chambilo estate in Mombasa the trustees say that they entered into a 50-year lease with an Asian and they are collecting Sh550000 per month. Yet, all the tenants

were evicted and the houses have never been occupied since 2012. The auditors question as to where the Asian gets Sh550000 per month to pay for the lease.

The scheme's external auditor Deloitte in its annual report for year ending 2014, warned that the trustees were carrying most of the scheme's investment properties at forced sale value — at throwaway price.

The auditor, who slapped the scheme's financial statement with a qualified opinion, said that of the properties they sold only this one- Matumbato L.R. NO 209/6505 had been revalued in 2014.

CONFLICT OF INTEREST

Others including Nairobi West (3.81 acres), Sh250 million; Whitehouse (three acres), Sh580 million; Gakuo Court, Sh650 million; Ngong Road (half an acre), Sh90 million; Makongeni (two acres), Sh220 million; and Kindaruma (half an acre), Sh80 million were last revalued on June 30, 2011 by Knight Frank Limited.

“This is not consistent with the requirements of IAS 40 which requires that the fair value of the investment property shall reflect market conditions at the end of the reporting period,” read the report.

It further indicated: “The values of most of the investment properties are based on forced values which is not consistent with requirements of IFRS 13 which requires that fair value of an investment property should be determined based on highest and best use of the property.”

It is interesting how the value of the pensioners land and property does not appreciate, even when property prices in Nairobi have tripled in the last five years.

A good example is LR 209/11953 Railway Club 18 acres which is valued at Sh13 billion and LR209/6829 Makongeni 139 acres which is valued at Sh5.8 billion.

“Both properties are prime as they are within the city. One would wonder how these valuations are done?” expressed Mr Kanyeki.

The pensioners cite a conflict of interest in the appointment of the Kenya Railways Corporation chairman Michael G. Waweru, which they point out, has worked against the scheme since he is

also the current chairman at Zamara Group (formerly Alexander Forbes Financial services), which owns Corporate and Pension Trust Services Ltd.

The chairman of Corporate and Pension Trust Services Ltd — James Olubayi, and its two directors — Mr Kilavi and Bungoma governor Wycliffe Wangamati report to the same Chairman in Kenya Railways Corporation, as well as in Zamara Group. The chairman of Corporate and Pension Trust Services Ltd Mr James Olubayi is also the executive director at Zamara group.

“This gives leeway to a lot of compromises on our sponsor in running the scheme. The appointing entity should have known that,” says Mr Toili.

It's nothing but a life of misery for the Kenya Railways pensioners

Across the country, tales of dejected families, hopelessness and bitterness are rampant among the retirees.

Previous efforts to hire professional firms to help boost prospects of the asset-rich scheme have not yielded much. Pension earnings remain low and irregular while the scheme struggles even to earn from its prime property located in the capital city.

At Sh31 billion, the Kenya Railways Pension Scheme is the biggest pension scheme in East and Central Africa. Yet, a majority of the retirees can neither afford medication, nor feed their hungry families.

Take for instance Benjamin Ayiro who hails from Namasoli in Butere Kakamega County. Mr Ayiro is 86 years old and retired in 1988 having worked for the giant corporation for over 30 years. He learns a meagre Sh3500 monthly pension.

“The last time I got pension was in July 2018, while the scheme administrators have already paid themselves salaries and allowances for October 2018. The government should intervene. Friends that I worked with have all died in poverty,” Mr Ayiro pleaded.

SUFFERING

According to the 2017 audit report by Deloitte, 2116 pensioners died last year. An estimated six pensioners died per day within the year. “These are only the reported cases,” added Mr Kanyeki.

The last time the pension scheme carried out a census of their pensioners was in 2015 when the population was estimated at 8000.

Mr Ayiro does not have a National Hospital Insurance Fund (NHIF) card and he is only able to access medical attention through his children and relatives.

Like many other pensioners, Mr Ayiro is passionate and excited about the possibility of owning a house at the Makongeni estate through a proposal by the FOKERAWA to the ministry of housing where the association requests the government to convert part of their compensation of the said multibillion estate into a three-bedroomed housing unit for every living pensioner and next of kin in the current payroll.



Benjamin Ayiro, 86 at his home in Namasoli Village in Butere, Kakamega county. The last time he got pension was in July 2018. PHOTO| COURTESY

“The association of pensioners has proposed a full prepayment for the housing units through a plough-back of the agreed compensation back to the Agenda Four project team,” says Mr Kanyeki.

Wycliff Obanda Siome is another pensioner from Yala, Siaya County. For a couple of years now, Mr Siome has been battling kidney failure and has to go for dialysis regularly.

The delayed pension has really affected his life as he cannot even budget and plan for his hospital visits. “If I did not have children and relatives, I would not be alive by now,” says Mr Siome.

“The scheme had promised an engagement with the NHIF, but they have instead contracted a third party who charges asks pensioners to enrol. Why can’t the scheme pay NHIF directly so that pensioners can access medical attention?” Asks Mr Kanyeki.

Mr Siome is also optimistic that he may live to own a unit of the houses to be constructed under the affordable housing scheme at the Makongeni estate where he brought up his family.

This is the fourth month that Mr Ayiro, Mr Siome and thousands of other Kenya Railways retirees will be going without pension.

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