Who Hogged the Land? The Farmers Choice vs. Uplands Saga

By Gatwua Mbaria

A meat processing company associated with one of the top media investors in Kenya has continued to sit on hundreds of acres of land previously owned by a defunct pork processing firm in Lari sub-county in Kiambu despite being ordered to surrender it to the Kiambu County government by the National Land Commission.

The National Lands Commission (NLC) ordered Farmers Choice Ltd to surrender the land and the factory built on it on March 1st, after a determined group of Lari residents took up the matter with the NLC through the Kiambu County government. The group managed to have the county government place a claim to the Commission in late 2018 for the return of 240 acres of the land previously owned by the defunct Uplands Bacon Factory Ltd.

It was then that the NLC placed the trusteeship of the land to the Kiambu County government. NLC’s decision is contained in a Kenya Gazette Notice No. 1/03/2019 and states, among other things, that the land “is not available for any allocation now or in the future.”

After being approached by the group of six residents behind the claim, the Kiambu County government wrote to NLC on September 26, 2018, demanding a return of the land. Later, NLC made a public announcement asking all claimants to make their claims known in a meeting it held in Thika.
Town Hall. However, Farmers Choice did not send its representatives to the meeting, which enabled NLC to hand the land to the county government. But since then, the company has continued to sit on the land and to operate a pig rearing and feed processing concern under the name Rosemark Ltd.

However, Farmers Choice says that it owns the land. In a telephone interview with *The Elephant*, Iain Gibson, the Deputy Managing Director, said the company has a title for the land. “We have a legal claim to the land,” he said. Unconfirmed reports say that the company claims to have a 90-year lease, which was raised to 140 years, which is unheard of in Kenya.

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But this is disputed by Muhoho Francis, a University of Nairobi don and one of the six people who started the process of reclaiming the land. “We have documentary evidence to prove that Farmers Choice does not legally own the land,” he said.

Muhoho’s group, which first met to put in place the land recovery plan on September 3, 2018, made a formal search of the property at the Lands Registry in the Ministry of Lands. According to the search documents, Farmers Choice is not registered as the owner of the land. The documents show that the land was initially allocated to East African Estates Ltd of London in 1906, with the allocation been formalised on May 29, 1958 through a 999-year lease (which was automatically reduced to 99 years following the inauguration of the Constitution in 2010) and with an annual rent of Sh200.

Besides the search documents, a number of ex-officials of the defunct company - who constitute the group of six – provided other documents and vital information on how the land was illegally given out to a wheeler-dealer during the reign of former President Daniel Moi; how the farmers’ company was deliberately killed by the Moi government, and how Farmers Choice Ltd took it over.

The documents show that Lari’s potential for pig rearing was identified more than 100 years ago. Later, the East African Meat Products, the holding company of Uplands Bacon Factory, started operating on the land. The company was allocated the biggest proportion of the land. A small portion of the land was allocated to the East African Power and Lighting Company and for water easement.

**A downward spiral**

Founded in 1980, Farmers Choice is the top processor and marketer of fresh and processed pork products in Kenya. The company, whose main processing plant is in Kahawa West, Nairobi, produces pork and beef sausages, bacon, ham, as well as pet food. It was acquired by Lornho in March 1989 and changed hands again in 2000 in a move that saw it diversify its products and expand its market to Uganda, Tanzania, Zanzibar, Ethiopia, Muscat, Ghana, Nigeria, Bahrain and the United Arab Emirates.

The company appears to have operated in relative calm during the reign of Daniel Arap Moi. This was the time when a lot of concerns, including banks and construction companies belonging to tycoons in Central Kenya, started going under. At the same time, key sub-sectors, such as tea, coffee, milk and tea, also suffered a similar fate at the hands of main operatives in the Moi government, some of whom ganged up with international wheeler-dealers and conmen.

Uplands Bacon was not spared this fate. *The Elephant* has learned from ex-officials of the defunct
company that Uplands Bacon started going on a downwards spiral when Moi appointed a former Intelligence Deputy Director, Stephen Mureithi, to manage it. But Mureithi, who was spectacularly unsuited to run a meat processor, left after six months.

Since then, matters for a company that exported pig and other products to many countries in Africa, Europe and the Middle East went from bad to worse until it collapsed in 1985. Its death became imminent following unfettered looting and deliberate crippling by successive operatives appointed either to rescue it or as receiver managers.

Before it collapsed, Moi was to visit Britain in the early 1980s when Roland Walter (known as “Tiny”) Rowland, the late British multi-millionaire wheeler-dealer and former owner of Lornho Plc, sought to meet him. It appears that Rowland, who then owned a number of money-minting concerns in Kenya, including the Block Hotels, The Standard newspaper, Lornho House in Nairobi’s CBD and East African Tanning Extract Ltd, wanted some reassurance from Moi. But Moi was not interested in the meeting. However, Rowland came to know that a Mr Morris, the Managing Director of the then Eldoret-based East African Tanning Extract Ltd., was a friend of Mark Too, a key operative in the Moi regime. So, he asked Mr Morris to seek out Too so that the latter could secure the appointment, which was later granted.

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Around that time, the Moi government wanted to construct an international airport in Eldoret. The government identified Rowland’s land and asked him to surrender 3,000 acres for which he was to be compensated with Sh310 million. But the government paid Rowland only Sh200 million and rather than pay the balance, it handed to him not only Uplands Bacon’s land but also the pig processing factory. At the same time, only 2,000 acres were surrendered to the government for the construction of the airport and the Moi University; the rest of the land ended up with one of the Moi government’s top operatives. This was how Rowland was allowed to take over a company co-owned by the government and the Lari people who had bought shares.

**Debenture loan**

The defunct company had borrowed money from the Standard Chartered Bank Ltd as a debenture in 1963, which was to mature in 21 years. Somehow, it was unable to pay back the loan, which made the government come to its rescue by paying Sh42 million. Documents seen by The Elephant show that around the time, the company’s majority shares were held by Pig Producers and Marketers Association of Kenya, an outfit that brought together thousands of pig farmers, while the Pig Industry Board, a parastatal, and the Agriculture Ministry also held shares. This meant that the Association had a right to be involved in any decision pertaining to the handover of the company to another party. But according to former employees, this did not happen.

It was clear then that the Moi government would have none of that when it handed over the company to the late Rowland who started Farmers Choice Ltd in 1989. Rowland used the newly-acquired company to produce bacon and other pig products using the formula owned by the Uplands Bacon Factory Ltd without due regard to intellectual property rights. Indeed, the group behind the revival of the company wants Farmers Choice to declare how it ended up assuming the ownership of the formula.
In a strange twist of fate, Rowland was forced to either wind up some of his companies or sell them others. The controversial man, who took over the London and Rhodesian Mining and Land Company (or Lonhro) in 1961 and once swam in massive wealth, died in 1998.

**Was Waititu coerced?**

*The Elephant’s* repeated attempts to have Ferdinand Waititu, the Kiambu Governor, to comment on the matter yielded no fruit, even after leaving messages on his phone. This has disconcerted the group of six. “Since the NLC made the order, the county government is yet to take the offer and has been taking us round the circles,” said Muhoho. He added that his group petitioned the county government on March 19, asking it for plans to revive the factory, how it intended to acquire and install relevant equipment and how it plans to restore pig farming and marketing in the county. He says the group has also met Waititu to seek his intervention, but to no avail. “Initially, the governor appeared keen to take up the offer and had even planned a public rally to announce plans to revive the factory. But he now appears reluctant to do so,” said Muhoho.

*The Elephant* was unable to confirm whether the now impeached governor - whose management of the county’s finances has been under a spotlight - was coerced to drop the bid to take over the land or whether his reluctance has anything to do with the fact that the land in question is already occupied by Rosemark Ltd, a subsidiary of Farmers Choice Company Ltd. Today, Rosemark operates a pig rearing outfit on the land and has taken over the pig feed factory that used to belong to Uplands Bacon Factory Ltd. It has also fenced off the land, apart from eight acres that belong to Gathaiti Primary and Gathaiti secondary schools. On a map seen by a local daily newspaper, the two schools occupy 8 acres although they were initially allocated 12 acres.

**Constitution allowed restitution**

Since it acquired the defunct factory, the going had been smooth for Farmers Choice until Kenya inaugurated a new constitution in 2010 that gave people who have suffered various forms of injustices in the past to seek restitution from the NLC. For purposes of carrying out the mandate, NLC set up the Historical Land Injustices Committee that was approached by the Kiambu County government on behalf of the pig farmers in Lari sub-county.

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"After the County Government made the application, NLC advertised in a local daily on September 26 last year asking any claimant of the land to present their claims to the Committee,” explained Muhoho.

The land in question was registered as two parcels: LR No. 7593/1 of 68.25 hectares and LR No. 7593/7 constituting 32.37 hectares (i.e. about 251 acres). “Although Farmers Choice told us that it had a title to the land, it did not send representatives during the Committee hearing.”

**No evidence of ownership**

Documents seen by *The Elephant* show that the company went under receivership following a loan extended as a debenture by Stanchart in 1963 and which was to mature in 21 years. After the company was unable to pay the loan, the bank appointed Eliud Githiri to run it. However, in 1985
the company was taken over by the Pig Industry Board and the Ministry of Agriculture after the government paid the loan.

As this took place, a Mr Harley was appointed to represent Block Hotels Ltd, which co-owned it together with Pig Suppliers Association of Kenya (or pig farmers) and the Pig Industry Board. Mr Harley later resigned and the factory reverted to the farmers’ association. But this was short-lived; the government took it back after it started having cash flow problems following massive looting by its operatives. It was then handed over to Tiny Rowland after pig farmers abandoned production.

Muhoho’s group wrote to the Registrar of Companies on October 3, 2018 seeking to know the owners of the defunct company, names of past and current directors, its debt levels and whether Farmers Choice had any ownership documents. The letter was responded to the same day by Cyrus Njenga, a Senior Counsel in the Attorney General’s office, who said that the land, and especially LR No. 7593, “was sold by the official receiver as the liquidator of the company to the government.” Nowhere does the letter say that the land was ever owned by Farmers Choice.

But Muhoho views this as an anomaly because by the time the company went under, the government held the land and was not paid any money when it handed the company and the land to Tiny Rowland. “How could the government have sold the land to itself? In any case, the official search document does not show that the land ever changed hands since the defunct company got the lease in 1958.”

**Industrial park**

“As a community, we want to manage the land ourselves and revive the defunct Uplands Bacon Factory,” said Muhoho, who added that since the colonial period, the entire area was identified as being ideal for mass pig production and processing. He says his team plans to come up with a proposal for an industrial park and pass it on to the county government for inclusion in the County Integrated Development Plant (CIDP).

Besides the pig processing plant, the visionary group proposes setting up an animal feeds factory, bread and maize milling plant, shoe factory, juice and mineral water packaging, as well as a vegetable processing outfit that would tap into the large amounts of vegetables produced in Lari and neighbouring areas.

During the interviews with other group members who declined to be named, it became clear that the biggest hurdle to the realisation of its dream is the continued occupation of the land by Farmers Choice and the unwillingness of the Kiambu Government to take over the land. But they are also hopeful that the company will eventually abide by the decision made by the NLC.

**Systematic crippling of the economy by governments**

The saga surrounding this land, as well as the very death of the Uplands Bacon Factory, is indicative of how powerful and rich people systematically loot and cripple outfits that once benefitted ordinary people in order to either take them over or hand them over to foreign entities. It also shows how some rich people in the country do all within their means to keep millions of Kenyans in desperation and mass poverty.

Further, the story paints a picture of a government that is either unable or unwilling to protect lucrative subsectors of the economy that might otherwise benefit millions of ordinary citizens. It is a sad narrative of how not to run an economy. “Today pig farmers in Lari sub-county and elsewhere in Kiambu have no reliable market for their animals and have been forced to do with the stringent conditions and standards imposed by Farmers Choice,” said Muhoho.
It should be noted that the attempt to have the land revert to pig farmers was not made by leaders in the Lari sub-county or in the larger Kiambu County. It was done by ordinary people, which indicates that locals have lost faith in President Uhuru Kenyatta' government to cater for their interests. It is also a lingering narrative of how the Gikuyu community is taken for granted by its leadership.

In the recent past, Kenyans have witnessed unprecedented political drama after some leaders from Central Kenya made public their displeasure with Uhuru’s government, which is perceived as being unwilling to revive key subsectors or projects that once enabled the residents to make money in the region. For instance, the government is accused of rolling out a half-hearted attempt to revive the coffee subsector –which has been in the intensive care unit for over the last few decades, with production dropping from 130,000 tonnes in 1988/89 to slightly over 38,000 tonnes (a 66% decline) by last year.

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In addition, the government has shown no interest in reviving the pyrethrum industry that once generated real cash for thousands of families in the region. Further, no effort has been made to bring back industries, such as the East African Bag & Cordage Factory in Juja area, Panafrican Vegetables Products Ltd in Naivasha, Thika Taitex Mills in Thika and National Pencil Company that once produced pencils and matchboxes in Nyandarua County. This is despite the fact that the region’s residents voted overwhelmingly to place Jubilee and President Uhuru Kenyatta in government in 2013 and 2017/2018.

Looked at differently, the order by the NLC that the land be given back to the pig farmers through the county government brings to public limelight the fact that determined Kenyans who suffered historical injustices can successively make a claim to have the injustices resolved. Many Kenyans appear not to be aware that the Historical Land Injustices Committee has been accepting claims from individuals, families, clans and communities who lost land during the colonial period and since Kenya became independent in 1963. The Committee has been sitting over the last five years and has made some progress, albeit limited, in restoring historical and ancestral claims to lands lost by Kenyans. This comes at a time when the 99-year leases given mainly to British settlers and companies are coming to an end, creating a legal milieu for people who lost their parcels of land to get them back.

Meanwhile, top politicians and the British government, through its High Commission in Nairobi, have been putting up a behind-the-scenes spirited effort to have the current holders of the lands retain ownership.

Away from this, the saga surrounding the land is a glaring indication of how members of the Gikuyu community are taken for granted by the community’s leadership despite being falsely led to believe that they collectively sit at the pinnacle of power in the country – a mental condition popularly known as uthamakistan in social media parlance.

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