Economy

Property Rights Infringement Practice Is Rampant in Tourist Zones

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The property rights infringement practice is rampant in Georgian resort zones through arbitrary registration of the state title on the questioned property, as well as by allegedly abandoned and gifted property in favor of the state. To find out the culprit responsible for the infringement is impossible at the moment, but as a consequence members of majority party become the new owners of alienated property that is impossible to get back even through the courts of justice. Majority still recommends solving suspicious disputes through courts.

The third report "Stripped Property Rights in Georgia" of the coalition of four non-governmental organizations including Transparency International Georgia (TI Georgia), Georgian Young Lawyers' Association (GYLA), Georgian Regional Media Association, and the Association Green Alternative issued in frames of Promoting Property Rights Protection in New Touristic Zones reported on new property violation cases on April 11, 2012.

"On the whole territory of Georgia and especially in touristic zones several dozen citizens simultaneously abandoned their property or relinquished it to the state as a gift," the report reads.

On the other hand, the state often registers its title to the property via electronic versions, which are already officially registered under a citizen's ownership based on the paper version of drawings. Often it is the state that is the new owner or members of National Movement, the ruling majority party.

The project of non-governmental watchdogs launched in 2011 and focuses on touristic regions namely Samegrelo-Zemo Svaneti [western part of the Caucasian highland area] and Ajara [the Black Sea littoral of Georgia] after it got obvious that government develops touristic infrastructure on expense of abusing property rights of local landowners there. The first report was drafted in March of 2011 on deprivation of property by the state from 271 residents of village Gonio (located on the beach in Ajara). The second report was published in July 2011, and describes the private property infringement cases in Mestia (Svaneti).

But as far as the property infringement cases go ahead throughout the country's resort zones the present report covered its various forms in several regions.

In various regions of Georgia, property owners were forced to officially abandon their property (and thus automatically transfer it to the state) or were forced to directly enter into contract and give their property to the state as a gift. The alienated property was handed to majority party members in most cases. For instance: twenty cases of giving property to the state as a gift and two cases of abandonment of property were reported between December 13-23, 2010, in Sairme, spa mountainous resort in Imereti, western part of Georgia.

The majority of gifted lands were transferred to the "Sairme Development Company" LLC, whose 100% shareholder is Temur Kokhodze, a MP for the United National Movement party. Kokhodze denies any wrongdoing against property owners, while the injured population has refrained from discussing the topic of how they lost their property.

Non-governmental watchdogs wonder why on the earth people who had no other living source apart of abandoned or gifted lands did such transactions or why not sell them out and enjoy high profit as lands in resort areas are quite expensive. For example one gifted land spot given gratuitously to the state in Sairme was evaluated at about GEL 600 thousand in 2009, Eka Bokuchava, an expert involved in the research project from TI Georgia, said in the interview with Georgian Journal.

Non-governmental experts doubt that proprietors exercised these charity actions under the state pressures and intimidation but it is impossible to prove circumstances of duress because the former owners did not appeal to either the media or the police.

"Actually the 20 people from Sairme who gifted their property to the state appealed to GYLA for help but when GYLA experts visited the region they refused to explain anything, perhaps someone had warned them already," Bokuchava said.

Yet, it is easy to obtain documentary evidence of mass abandonment or relinquishment as a gift through the Public Registry. As a rule, the facts of property abandonment and giving as a gift were not only concentrated geographically, but at specific points of time as well i.e. several dozen citizens in the same territory simultaneously abandoned their property or relinquished it to the state as a gift. The majority of these people do not have any real property apart from the abandoned and gifted property that makes experts question the gratuitous nature of these real estate alienation cases.

According to Bokuchava, owners of the gifted property in Sairme had tax arrears and their property was arrested by a month ahead prior to the gifting transactions.

"I think this was quite a ground to press them to hand over their lands," she said.

79 facts of abandonment of real property by private persons were reported between January 13-25, 2011, in the territory of Bakhmaro -the highest mountain resort of Georgia in Guria, also in west Georgia.

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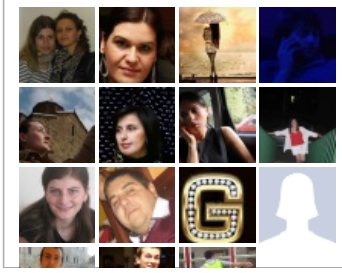


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Majority of owners took extensive bureaucratic steps to register this property first [they addressed the commission for recognition of the right to ownership, collected and submitted various documents confirming their possession of these land plots, commissioned cadastre drawings, certified witness depositions at a notary, paid fees, obtained ownership certificates, addressed the Public Registry and again paid service fees for registering the property] and afterwards abandoned their property which raises significant suspicions.

"The ground to this was that the person [Shota Siradze] who was the chairman of the commission for recognition of the property rights at Chokhatauri municipality [responsible for Bakhmaro area], was arrested at bribe-taking and the property registered by him was acknowledged allegedly be illegal and the owners presumably were forced to abandon the lands," Bokuchava said.

The people who abandoned their property in Bakhmaro do not talk about the reasons for doing so.

"At this point it is difficult to establish whether they had legally obtained the ownership certificates and then registered the title in the Public Registry. However, even if the commission had illegally issued the ownership certificates in favor of some persons, the legislation foresees legal ways to revoke such certificates. In certain exceptions, the commission has the right to reexamine case circumstances and revoke the certificate it has issued," the report reads.

On the other hand, the state takes advantage out of the imperfect regulation of the Public Registry during the property registration procedures and seizes property through electronic registration. The point is that during the registration of a person's title to real property, legislation authorizes the submission of the both paper (hard) version and electronic versions of cadastre drawings. However, the Public Registry is unable to compare these two drawings. As a consequence, the state precedes owners of the property that is still registered on paper and registers its title to the questioned property through electronic versions.

What happens is that landowners suddenly discover that their land has become someone else's property. For example Soso Akubardia in Anaklia [the Black Sea coast in Samegrelo where Georgian president decided to deploy a new city and tourist infrastructure in 2009] owning and cultivating a 47,92 ha. land plot since 2007 and legally registered in the Public Registry, found it in state ownership in 2009.

Furthermore, on December 21, 2009, this land plot, together with other land plots, was transferred by direct sale to the company, Anaklia-Port owned by Temur Karchava, a Georgian millionaire working in Russia. It seems that after serving a two year sentence in Moscow, Karchava decided to return to his homeland and make property investments in Anaklia. He paid GEL of 6. 340 445 (USD 3.830 656) to the state and assumed an obligation to invest USD 5 billion investments till 2013 there.

Akubardia appealed to the court for help but it rejected Akubardia's claims on the restoration of his property rights. Court found impossible to establish that the land plot registered in Akubardia's name in the Public Registry in 2008 and the land plot in the state ownership are the same. To prove the identity of the land plots, Akubardia's representatives have raised numerous motions in particular, they requested an expert examination to be completed, that neighbors be questioned and the land plot be inspected on the spot but the judge rejected every single motion.

Akubardia's tax-payer status is as an entrepreneur physical person meantime, he used to pay various (including land) taxes on an annual basis and receives land tax notifications until this day. Currently the Akubardia case is transferred to the European Court of Human Rights.

The non-governmental coalition claims neither the legislation, the Public Registry, other administrative agencies, or the courts ensure the effective protection of property rights in similar occasions. They appeal to government to find the responsible body for property violation cases and solve the problem. Majority MPs were not available to GJ for timely comments at the moment however by other media they are reported advising to solve the problem through courts.

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