STORM BREWS OVER KINYARA SUGAR SHARES

BY PASCAL KWESIGA

The controversy surrounding the sale of the last 30% government shares in Kinyara Sugar Limited (KSL) is exploding into a crisis in Bunyoro kingdom, with officials in the cultural institution accused of closing a bogus deal with the majority shareholder.

Sources say the deal was shrouded in secrecy and it is not clear how the 10% shares worth sh28b reserved for the kingdom were taken over by the investor, Rai Holdings Ltd.

In a gazette published this week, the Privatisation Unit (PU) indicated the 30%, the final stake the Government held in Kinyara, was sold to Rai (20%) and Bunyoro kingdom (10%) in a sh86b transaction closed on June 30. Until recently, Rai Holdings was holding 70% shares in the sugar plant located in Masindi in western Uganda.

However, questions over who bought the 10% shares peaked during the week, forcing Rai Holdings to announce that it financed, under an agreement said to be containing a non-disclosure clause, the purchase of 10% reserved by the Government for the kingdom. This implies Rai Holdings now owns 100% in KSL.

FARMERS BETRAYED?

The deal has infuriated the people in Bunyoro, including cane farmers who partly relied on the kingdom to protect their interests.

"This is very unfortunate. It means we have no one to run to. The Government has also sold the shares it said it had reserved for us," Robert Atugonza, the chairman of the out-growers association, said.

The recent transaction means the kingdom has lost 10% stake in an expanding sugar production factory, and it will no longer be able to challenge the alleged exploitation of the over 6,000 out-growers in Masindi, with about 20,000ha of their land currently under sugarcane.

The kingdom is the owner of the expansive land on which the factory said to have been set up by Omukama Sir Tito Winyi before independence, sits.

The majority shareholder, Rai Holdings, has set up another factory under Hoima Sugar Company in Hoima on the kingdom's land and is planning to establish another in the neighbouring Kiryandongo district.

DISGUISE

The 10% share purchase from the Government was registered in the name of Bunyoro kingdom (buyer) in the July 21 gazette general notice number 630 of 2017.

The Government allocated and reserved 10% shares for the kingdom in 2006 when it (Government) sold its initial 51% shares to Rai Holdings for $33.5m (about sh62b).

The Government indicated that it had also reserved in the plant 10% shares for employees and another 10% for cane farmers. In 2011, the Government sold its 19% to Rai Holdings for $9.1m (sh32.8b), retaining only the 30% it had reserved for the three parties.

In a surprise turn, the Government sold the 30% stake. However, the kingdom did not have the sh28.7b to purchase the shares, and its officials have come under criticism for closing the deal with Rai to buy shares allocated to it in the name of the kingdom.

New Vision broke the share purchase story on Wednesday under a headline – "Ghosts buy Kinyara Sugar Works shares." In the story, Rai Holdings general manager R. Ravi and Bunyoro kingdom prime minister Norman Lukumu had denied knowledge of the transaction.

In a dramatic turn, Rai Holdings, in a statement issued on Thursday, confirmed they had bought the last 30% shares, including 10% reserved for Bunyoro.

"Rai Holdings Limited...has, under an agreement with the Bunyoro-Kitara kingdom, financed the purchase from the Government of Uganda of 3,827,112.5 shares being 10%...to make a total acquisition by Rai Holdings Limited of the 30% Government shareholding in KSL," the statement reads.

Sunday Vision has established that the Privatisation Unit signed the forms to transfer government shares in Kinyara to Bunyoro kingdom and Rai Holdings.

It has emerged that in the transaction, the cultural institution was disguised as the purchaser yet the buyer is Rai Holdings.

"The transaction was concluded last month and the Government was paid. Bunyoro has sold its stake to another party," finance minister Matia Kasaija, remarked.

MINISTRY SPEAKS OUT

The Privatisation Unit's acting director and spokesman for the finance ministry, Jim Mugunga, said the information published in the gazette is accurate.

"I am the one who signed the gazette, and by the time the Government does that, we are sure due process has been followed and the transaction is legal and everything is correct. We can defend it at any level," he added.

Under pressure from the Banyoro, the kingdom administrators have denied involvement in the deal. But the PU said the kingdom and Rai Holdings were represented during negotiations and their representatives signed the purchase agreements on behalf of the kingdom and the investor. However, Mugunga declined to disclose the representatives, saying it was unnecessary.

"I can state that the Government sold to Rai and Bunyoro Kitara. After sale, the Government was duty-bound to sign transfer certificates in the names of the buyers. The purpose was for them to secure ownership. The buyers can confirm what they did thereafter," Mugunga added.

He explained that the share transfer certificates were approved and signed (by the Attorney General and Solicitor General) in accordance with instructions issued by the two purchasers after "successfully completing payment for the shares".

"Both Bunyoro and Rai received signed share transfer forms from the Government after successfully meeting all sale conditions set in the transaction," Mugunga explained. "The buyers do not owe the Government any money."

President Yoweri Museveni wrote to the finance ministry between 2008 and 2012, directing the minister to secure funds and buy the shares for the kingdom after the institution said it could not raise sh28.7b.

In 2012, the Solicitor General advised that the Government could not use public funds to purchase shares in (a public) property for the kingdom, a non-government organisation.

Unable to raise the money and following unsuccessful attempts to get the presidential directive to purchase (shares) for Bunyoro implemented, the kingdom appeared to have given up pursuit for the stake in the plant.

SHARE PURCHASE

In such a transaction, all the Privatisation Unit was required to do is to sign and hand the buyers share transfer forms, but not share certificates. The kingdom did not have to possess a share certificate because it was buying (disguised buyer) from the Government.

Kinyara is not listed on the stock exchange, and share certificate(s) would have been issued by the Uganda Registration Services Bureau after the buyers had completed the transfer process.

Where Bunyoro gets a share certificate as a disguised buyer or not will depend on the agreement the two parties are keeping close to their chests.

Lukumu denied having received any money from the deal.

"Where did they find me to give me the money? Do they even know me?" he asked. "I will give a detailed explanation so that people understand how those stories in the press came about. We failed to raise money for the shares and did not purchase," he added.

CALL FOR ACTION

However, he added that if Muzamil Bikanga, the kingdom deputy attorney general, pocketed money for anything relating to the shares, he will be held accountable at "disciplinary level".

The kingdom attorney general, Robert Irumba, said such a transaction should have been blessed by the kingdom parliament and cabinet.

"It should have even been discussed before a resolution is taken. It has never been discussed and no resolution has ever been taken to that effect. What was known to us is that the President directed that shares be purchased for the institution, but government lawyers challenged it," he stated.

KINGDOM MINISTERS USED

A source said a list containing names of ministers and their signatures was used to back an alleged resolution for the phony agreement between the kingdom and Rai. The kingdom secretary to cabinet, Philip Katahoire, attempted to discuss the matter with *Sunday Vision*, but hung up a few seconds into the discussion.

The Government used $5.2m, part of the money it earned from the sale of its stake in Kinyara, to purchase shares in Atiak sugar factory in Amuru, owned by business woman, Amina Hersi.

The business lady has received an additional $12.5m through Agricultural Credit Facility to complete the plant.

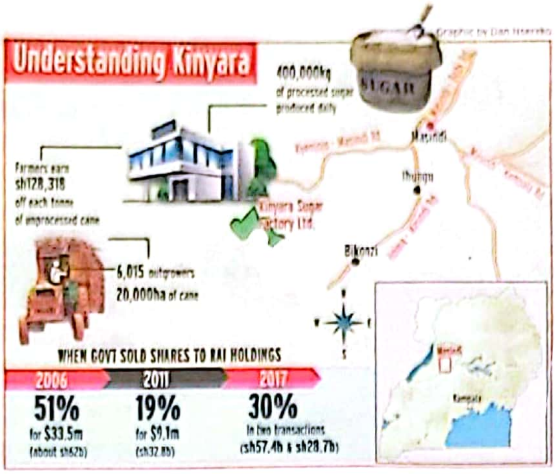
Lawyers take

Simon Kasangaki, a lawyer, said the parties involved in the transaction should be compelled to produce the agreement. This, he said, is critical in understanding the sort of transaction that took place between Bunyoro and Rai.

"The kingdom officials can produce the agreement. If they refuse, court can direct them to disclose it," he said. "You cannot accept to have a kingdom disguised as the buyers of shares for sh28b and you bring to the kingdom sh1b."

John Baingana, a city lawyer, explained that for such a transaction to take place, the two purchasers ought to have taken a resolution to that effect.

"The fact that the gazette features Bunyoro as the share purchaser, implies the kingdom acquired the shares, but it is also possible they were bought by Rai Holdings in its name, depending on the nature of the agreement the two parties signed, according to Baingana.



How deal was sealed: Kingdom officials at forefront

A source privy to the agreement and kingdom palace affairs said the deal was blessed by Lukumu, and pursued by the kingdom deputy attorney general, Muzamil Bikanga.

The source told *Sunday Vision* that Bikanga held several meetings with the Asian investors in different places in Masindi and at the Kampala Serena Hotel, where various aspects regarding the deal were discussed.

The Attorney General and Solicitor General approved and signed the share purchase agreement disguised as belonging to Bunyoro and another from Rai Holdings.

A source said Rai Holdings handed Bikanga sh1.7b for the deal on behalf of the kingdom, but it is not clear whether this was wired to the kingdom account.

***Sunday Vision* has learnt that Bikanga obtained the powers of attorney from the kingdom to handle the deal.**

Bikanga, who vehemently denied initially that there was any agreement either between the kingdom and Rai Holdings, told *Sunday Vision* that if there is any contract regarding the deal, it is informal.

"If the kingdom officials got some money from this, they should be commended because the parties (Government and Rai Holdings) involved did not want the kingdom to get anything," he stated.

He insisted that the kingdom could not close a formal agreement with Rai Holdings because it did not have "a share certificate" to transfer its shares to the investors. Bikanga neither denied nor confirmed receipt of sh1.7b in the deal on behalf of the kingdom.

"If we received something, it was just a token because we did not own the shares and the Government denied us a share certificate," Bikanga stated.