



REPUBLIC OF MALAWI

INQUIRY BY THE OMBUDSMAN

IN THE MATTER

BETWEEN

ALEX VAN MKOPOLA..... COMPLAINANT

AND

BALAKA DISTRICT COMMISSIONER.....1<sup>ST</sup> RESPONDENT

MINISTRY OF HEALTH.....2<sup>ND</sup> RESPONDENT

INQUIRY NUMBER: 61/2018

FILE NUMBER- BLK-15-OMB-17

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Martha Chizuma	-	Ombudsman
Complainants	-	Present
Respondent	-	Present

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## DETERMINATION

1. The Complainant lodged his complaint with my Office in June 2015. His allegations were that Balaka District Commissioner (the Respondent) had failed to assist him with his claim for compensation after his land had been taken for the building of a Health Centre.
2. The evidence shows that having noted a need for a health centre in the area, the people agreed to build one. The MP for the area, Honourable Gertrude Mutharika (as she then was), was approached. Land was identified for the project and this land belonged to the family the Complainant had married into. The story is the same up to this point. The disagreement arose with respect to whether the Complainant was going to be paid compensation or not, and if yes, how much.
3. The Complainant went to the DC's office but he was only referred to the Ministry of Health. He wrote the Ministry of Health but never got a response. This is when he came to my office. Looking at how the story was unfolding, the matter was referred for Public Inquiry.
4. I visited the land in question together with all the relevant parties. During the inquiry on site, it was revealed that the land was actually bought by a brother-in-law to the Complainant, a Mr Mkwate. Upon which the Complainant modified his statement that since he was a 'mkamwini' in the village, he had gone through his brother-in-law to purchase the land on his behalf. This is the same brother-in-law who had given the land to the village for the erection of a health centre in the village.
5. The Office of the District Commissioner stated that they had not been involved in the project or the acquisition of the land. According to the DC, where a community requests for a Health facility under the Health Service

delivery, the communities themselves are supposed to look and provide land for the project. Such self-initiated projects rarely have a compensation package attached to them. This project did not have a compensation aspect. It has been repeatedly stated that in the beginning the Complainant had no issue with the project; it was only after he could not get proceeds from some of his trees destroyed that he began seeking compensation.

6. I find that the claim of the Complainant must fail as there was no compensation component to the project and the other trees that were cut and taken by the contractor were not done by the Respondents herein.
7. I cannot fault the first Respondent on any act of maladministration as their hands were tied with the nature of the Project and they accordingly assisted within their mandate in respect to the project dispute.
8. For the second Respondent, their failure to respond to the Complainant when he inquired on the status of his compensation is unfortunate and an act of maladministration. Their response would have clarified matters to the Complainant and enabled him to have an early closure to this case. As it happened, the case has taken longer with my office being involved. For that reason, I recommend to the Ministry of Health to be responding to queries from concerned people as that save a lot of government's money and even time.

Matter dismissed.

#### 9. RIGHT OF REVIEW

Any party dissatisfied with this determination and with sufficient interest in the matter is at liberty to apply for review to the High Court in

accordance with section 123 (2) of the Constitution within 90 days from the date of this determination.

**Dated this 23rd day of April, 2018**

A handwritten signature in black ink, appearing to be 'M. Chizuma', written over a horizontal line.

Martha Chizuma  
**OMBUDSMAN**