



INVESTIGATING THE IMPACT OF CORPORATE COURTS ON THE GROUND – THE TRUTH IS OUT THERE!

CASE NAME:

AGRO ECOENERGY V TANZANIA

SUMMARY:

Sugar plantation investor accused of a land grab is suing after the Tanzanian government took back the land title

STATUS:

Under way (as of January 2019)

AT STAKE:

£40 million

DETAILS:

Case started September 2017 using a Sweden-Tanzania investment deal



Sign marking the entrance to EcoEnergy's large sugarcane plantation near Bagamoyo, taken in 2016. Photo: Jill Buseth.

WHAT IS THE CASE ABOUT?

The agribusiness company, Agro EcoEnergy was given a 99 year lease to 20 thousand hectares of land near Bagamoyo on the east coast of Tanzania, which it planned to turn into a sugar plantation. The planned investment was a flagship project of the New Alliance in Tanzania.

The land was not empty. It was already in use by small-scale farmers and cattle herders. The first phase of the project would have meant 300 people lost their homes, while another 1000 lost land.

The company offered compensation but it did not consult with the local people and get their agreement and consent to the sugar plantation in the first place. People were not given the right to say no to the project. This breaks the internationally recognised principle of securing 'free, prior and informed consent', making the project a land grab.

Agro EcoEnergy made promises of jobs, but many in the community pointed out that over several years, these were only verbal promises. Many of the jobs were as 'outgrowers' – contract farming for Agro EcoEnergy, where the small-scale farmers would have been required to take on huge debts. This had not been explained to local people.

Local resident Jumanne Salum Waziri, told researchers, "It leaves the community vulnerable to the company's will". There were several legal challenges to the project and a campaign against it.

In 2016, the Tanzanian government revoked the land title, not on the grounds of the land grab but because of the potential impacts on water sources for wildlife in a neighbouring national park.

This was not a straightforward success because the government is now seeking another investor for the land. It would be essential that any future project consults properly with local people and that the community is able to say no if that is their choice.

Background: G8 New Alliance

A discredited initiative of the then G8 launched in 2012, where ten African countries promised to change land and seed laws to better suit foreign investors, in exchange for vague promises of corporate investment. Existing aid from rich countries was redirected into the scheme.

In reality, the New Alliance increased the risk of land grabs, undermined small-scale producers rights and livelihoods and promoted an unsustainable model of agriculture dependent on fossil fuels and chemical inputs. Campaigners in G8 and African countries were able to effectively bring an end to the scheme.

In 2017, after two and a half years of campaigning, the UK government said that it would no longer channel money into the New Alliance.

CORPORATION'S COMPLAINT

Agro EcoEnergy is now suing the Tanzanian government in an Investor-State Dispute Settlement (ISDS) tribunal for cancelling its land lease. Although the company is registered in Tanzania, it is owned by the Swedish company EcoDevelopment and it is using an investment deal between Sweden and Tanzania.

The corporation is challenging the government on a range of points, including 'failure to provide land free of encumbrances'. In other words, because the land was not empty – the legal term 'encumbrance' (or obstacle) refers to the rights the people living there have over the land.

OUR VERDICT

All land across the world that can be used for agriculture is already being used by people. There is no empty land and people are not 'encumbrances'.

Small-scale farmers produce the food that feeds the majority of the world. They do need more investment but the kind of investment that supports them, recognises their rights and promotes sustainability.

Campaigning was able to stop a land grab in Bagamoyo, at least for now. But the corporation can use ISDS to claw back its money regardless.

MORE INFO

ActionAid, Stop EcoEnergy's land grab in Bagamoyo, Tanzania. 2015, <https://bit.ly/1EFyh92>

Tanzania rejects ISDS

Tanzania has recently faced a wave of ISDS cases in addition to this one. It lost a case to Standard Chartered Bank over an electricity contract and was ordered to pay a massive £116m. It is being sued by Acacia Mining over gold mining, by Symbion Power also on electricity, by Biwater Gauff on water supply and by Sunlodges over another land licence.

This has brought things to a head, and in September 2018, the Tanzanian government passed a law banning ISDS. It now requires corporations to use national courts to resolve disputes instead. This will not be retroactive and so cases already underway, like Agro EcoEnergy's, will continue.

Tanzania joins other countries around the world who are taking steps to reject ISDS, including South Africa, India, New Zealand and Ecuador. Brazil has always refused to sign up to ISDS.

Investor-State Dispute Settlement (ISDS,) or 'corporate courts', gives corporations far reaching privileges and access to their own legal system to enforce them. This mechanism threatens society, democracy and the planet.
STOP ISDS!

