

**LAND
AND
CONFLICTS**

NAMAACHA



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*Land Grabbing in Cocomela, village of
Namaacha, Mozambique*

TECHNICAL

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The struggle continues, until we have a fair and just country, where all Mozambicans are free and enjoy the same rights!!



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Message from the board

This case study regarding land conflicts in Cocomela seemed complicated to us from the beginning. Since the first meeting between JA!, the Mozambican Mechanism of Support to Civil Society (MASC), and the Association of Natives, Residents, and Friends of Namaacha (ANRAN), with the aim of impeding the municipal council of grabbing peasants' lands, we realised that we were amidst a complex and delicate situation.

Violations of the law as well as a weak capacity to implement it are our daily bread in Mozambique. A few years ago, between 2010 and 2011, JA! along with UNAC (National Union of Peasants) conducted a preliminary analysis about the general overview of land grabbing cases in some provinces of Mozambique. "Os Donos da Terra" (The Owners of the Land) was a study demonstrating several illegal procedures related to the expropriation of farmers' lands. From this point forward, our work in this field has been constant. It took us some time to understand exactly how these land grabs were being materialized, as both the Mozambican Constitution and the Land Law provide necessary tools to protect customary rights over land. We believe that, apart from the difficulties already mentioned in regard to the implementation of the law, there is a weak understanding of the law itself at government level. We have heard endlessly that the land belongs to the state, so therefore it belongs to the government. This is wrong: the state is the Mozambican people, and not the government. This false but

surprisingly convincing premise is the starting point of many of the land conflicts that exist today in Mozambique.

When we first heard about the situation in Cocomela, in 2016, JA! was already being constantly confronted with land grabbing cases in rural areas of the country, mainly related to foreign investments, and usually with the government's patronage. But this was the first time we came across an accusation made directly to the Municipal Council. It seemed strange to us that the Municipal Council could engage in an attempt to take land away from its own citizens. Just as it had happened in similar cases, when we began investigating more in-depth the allegations of the farmers in Cocomela and the existing documentation, we indeed verified that we were amid a case of land grab.

It is important to praise here the work of ANRAN, not only for questioning the decision of the Municipal Council, but mainly for uniting the community to fight against such an injustice and an assault to its fundamental rights. The farmers from Cocomela and ANRAN demonstrated great perseverance and unity along this process, and sought support from other civil society organisations in order to achieve their goals.

Despite some advances, this case remains unresolved and our work here is surely not finished. We will not rest until all land has been officially returned to its legitimate owners: the farmers that have lived on it for over a decade and depend on it.

Lastly, we would also like to thank the volunteer student who accepted to elaborate this article.

The struggle continues, until we have a fair country, where all Mozambicans are free and enjoy the same rights! |

Anabela Zemos

JA!'s Director



CONTEXT

“We communicate to the general public that the attribution of land plots in the expansion area of the Namaacha village will commence.

We also hereby notify the public that those to which a piece of land for construction will be attributed will have to pay the respective occupation fee within a 15-day deadline; in such cases that the payment is not completed within the established deadline, this piece of land will be taken away without prior warning, and assigned to other interested individuals.

Namaacha, on the 29th of January of 2008
The Permanent Secretary of the District”s.

We begin this explanation with a full transcription of the statement 135/GDN/SEC/08 (statement 135), published by the Permanent Secretary of the District in January 2008. This statement marked the beginning of this case of land grab by the government, and we aim to start evidencing the inflexibility and misinformation that characterize this process. More specifically, we wanted to shed a light on the interaction between the District Government and its people.

To those least familiar with the Mozambican Land Law, or those who may not be aware of the current situation in the alleged area of expansion of the village of Namaacha (Cocomela), this statement may seem insufficient to sustain any accusation of land grabbing. However, if we take into consideration the fact that the land plots in question are being used by local peasants practicing subsistence farming in the area, and that the occupation “fee” requested in the statement above (as a condition to being attributed a plot) amounts to 18,000,000 Meticais (around 300 USD), this decision may become more questionable. After all, who could be these “other interested individuals” mentioned in the statement?

A countless number of peasants from different neighbourhoods of the Namaacha village have been farming in Cocomela, for many years, in vast plots of varying dimensions. Many people depend on this land for their own livelihood and therefore, as it could be expected, this statement gave rise to grave concerns within the core of ANRAN (Association of Natives, Residents, and Friends of Namaacha).

On February 12th 2008, ANRAN's president sent a letter to the Namaacha District Administrator expressing the communities' discontent after becoming aware of statement 135. This letter included complaints regarding the occupation fee charged by the Administration, the short deadline of 15 days to make this payment, and the threat of dispossession to those who would not comply with these conditions.

So a meeting convened by the Namaacha District Administrator took place on February 14th 2008, with the presence of the directors of District Services, the Secretary of the District Committee of the Frelimo Party, and ANRAN. In this meeting, the Administrator explained that the Government of the District had decided, together with the Provincial Directorate of Agriculture, due to a concern expressed in 2005 (when he took office) regarding the lack of land plots for construction in the region, that the demarcated area should be detached. He added that the occupation fee is 18.00 Metical per square meter (a total of 16,200.00 Meticais in parcels of 900 m² each), that had been calculated to cover expenses related to opening new streets, water pipes, electricity grid, among others.

THE CONCLUSION OF THIS MEETING, THE PRESENT PARTIES AGREED TO THE FOLLOWING MEASURES:

1. A reduction of the occupation fee to 10.00 Meticais per m²;
2. A delay of the payment deadline to 6 months (instead of 15 days), and the possibility of making the payment in separate installments;
3. An abolition of the travel fee charged by the registration technician;
4. The prioritisation of allocation of land plots to the residents, through a process that must ensure coordination between the registration sector and ANRAN.

Despite this apparent progress, through the consensus allowed by the Administrator, one pertinent question remains: shouldn't the expenses being used to justify the absurd occupation fee be included in the Government's budget? Don't they not fall under the responsibility of the State? Despite the apparent advances in this meeting, the Land Law was still not being respected under the established agreement.

On October 6th 2010, a statement signed by the President of the Municipal Council of the Namaacha Village was published in the newspaper Noticias (Jornal Noticias) calling all holders of land plots which had been underused for over 2 years, in 3 neighbourhoods and 4 villages - including Cocomela - to go to the Municipal Council of Namaacha and present the concession documents, within 30 days. The President added that after this deadline, the DUAT (Land Use Title) in question would be extinguished, under Law 19/97 (Land Law), combined with article 36 of the Decree 60/2006 (Regulation of the Urban Soil).

In December 2010, in a letter directed to the Municipal Assembly, the President of the Municipality Council solicited the annulment of the land title (DUAT) of plots that had been underused for over 2 years, as it had already been notified in the statement published in Noticias.

A great fallacy lies within the information published in Noticias and in the solicitation submitted to





the Municipal Assembly: the land in Cocomela was not being underused. The approximately 120 hectares of land were cultivated by the resident farmers all throughout the period referred to. This narrative created, or at least supported, by the President of the Municipal Council, about the existence of a vast and underused area of land, is very far off reality.

In October 2014, the Municipal Assembly approved the Expansion and Urbanization project proposed by the President of the Municipal Council, designed by the technical team from Urban Services, which envisioned the attribution of identical 900m² (30x30) parcels to all the peasants who were farming in the designated area, in Cocomela. In August 2015, the Municipal Council started subdividing the area and placing cement marks to demarcate the 130 plots of 30m x 30m.

The image above shows two women: Linda Siteo on the left, and Lúcia Domingos Chiau on the right. These women are farmers in Cocomela, and they grow corn, cowpea beans, peanuts, pumpkin, cassava, and okra, just like many others in the same area. As with the rest of the farming community in Cocomela, they have, from 2011 to 2014, continuously heard about the Municipal Council's future plans regarding the annulment of land titles, via the neighbourhood chief.

In November 2015, ANRAN made a complaint to the Namaacha District Council specifically to the Administrator's office regarding the grab of farmers' lands in the Municipality of Namaacha, requesting the devolution of the land to around 60 families in Cocomela. It was also in November 2015 that Lúcia, Linda and other farmers in Cocomela were instructed to interrupt their agricultural activities on that land.

In May 2016, the Minister of State Administration and Public Affairs replied to the complaint made by ANRAN, stating that she had then established contact with the President of the Municipal Council encouraging him to proceed with the resettlement of these people, whilst taking into account the need for development in the Municipality. Despite being evasive, the letter from the Minister made an important acknowledgement: that these peasant families had been occupying the disputed land for a few years.

JA!'s INVOLVEMENT

In 2016, the Mozambican Civil Society Support Mechanism (MASC) contacted JA! requesting support for ANRAN - this recently created organization in Namaacha - that had reached out to them about their serious land conflict situation and alleged land grabbing by the Municipal Council of Namaacha. Thereafter JA! visited the site and consulted the affected families to become acquainted with the situation.

There, JA! confirmed that those families depend on this land for their livelihood and have been practicing subsistence agriculture in it for over 15 years. Many of the farmers had even applied for a land title certificate (DUAT) for the plot where they cultivated and resided, in order to safeguard their right to occupy the land. Nevertheless, in November 2015, farmers were forced to paralyze their agricultural activities to give way to Namaacha's subdivision and urban expansion project in the areas designated as 'underused', by Namaacha's Municipal Council. Many of the farmers mentioned that they had also endured personal threats and intimidation when they did not obey the instructions of the municipal authorities.

On February 8th 2016, ANRAN sent a new letter to Namaacha's District Administrator, with JA's support, sharing the concerns of the population in relation to the alleged plot subdivision of the area surrounding the district capital, publicised through statement 135. Nessa queixa, a ANRAN assumiu ao Administrador que havia já recebido a informação de que o parcelamento da área tinha resultado em 130 talhões de 900m² (30x30), e que, por sua vez, a ocupação destes estaria dependente do pagamento de uma taxa de ocupação no valor de 18 a 22 mil meticais. On this complaint, ANRAN informed the District Administrator that they had been notified that the subdivision of the area had resulted in 130 land plots of 900m² (30x30) each, and that the occupation of these plots would depend on the payment of a fee of occupation something between 18 and 22 thousand meticais (around 280 and 350 thousand USD).

Naturally, the Association contested the short deadline that gave peasants only 15 days to pay the occupation fee; as well as the threat of expulsion from the land, without prior warning, if they failed to pay it. ANRAN also reminded the Administrator about the lack of job opportunities in Namaacha, and due to this, the majority of the citizens of the village would be unable to comply with this monetary requisite.

Furthermore, ANRAN questioned why this project was regarded as one of 'land attribution' when actually it seemed to be more about the sale of plots of land. They also asked for a clarification on why this so-called opportunity was not adequately publicized, as it usually happens with other events of this nature in Namaacha. ANRAN also questioned whether the



precepts of the 2025 agenda had been respected – more specifically chapter VI, number 63.4, which speaks of access and possession of land. Lastly, ANRAN requested the Administrator to interrupt this process and convene a meeting between him and the Association. This letter was accompanied by a petition signed by members of the community and ANRAN's president.

The more than 60 affected families are entitled to the land in question by occupation, according to the Law. Their occupation was recognised by the Minister of State Administration and Public Affairs in her response to ANRAN, dated from May 10th, 2016. Following this official recognition, JA!, together with ANRAN, contacted the President of the Municipal Council of the village of Namaacha to pressure him to share more information with the affected families and civil society organisations about the subdivision and urban expansion project. In a letter sent to the President of the Municipal Council on September 27th, 2016, JA! requested his response to the following facts:

- ⊕ The Municipal Council's subdivision and urban expansion project resulted in a redistribution of the families' land plots, which implied that each would be attributed an equal plot with a dimension of 30x30m. This attribution disregarded the original dimensions of each family's plots, some of which larger than 2 hectares. The affected population remains unaware of the reason why their plots have been reduced, as well as information regarding to whom are the remaining plots being attributed to.
- ⊕ JA! became aware of the existence of a process of annulment of land titles (DUAT) in the area in question through a written request sent to the Municipal Assembly by the President of the Municipal Council. This request confronts the fundamental rights of the citizens that occupy this land within the precepts of the law. Despite this, the Municipal Council claimed that this process of annulment did not exist in any way beyond the mere redistribution of land plots envisioned by the project of subdivision and urban expansion.
- ⊕ The Municipal Council claimed, in a written response to JA!, that all the subdivision and demarcation procedures that were carried out by the institution were done so following the Plan of Urban Structure, the requests of such services by local communities and structures, and included the involvement and accompaniment of these same local recipients. However, these affirmations were not corroborated by the necessary evidentiary documents.
- ⊕ The Municipal Council also claimed to have revised its register with regard to habitation of the land in question. However, the basis for and the procedure undertaken in this revision are not known in detail by the affected population.



JA! ONCE AGAIN REITERATED THAT:

"The affected population acquired the right to the land (DUAT) according to the terms prescribed in subheadings a) and b) of article 12 of the Land Law and article III of the Constitution of the Republic. It is relevant to note that according to the precept established on the 2nd paragraph of article 13 of the Land Law, the absence of an official land title does not jeopardise the right to land acquired by occupation according to subheadings a) and b) of article 12.

In this same letter, JA! pronounced that the legal norms regarding public consultations and fair compensation were not respected in the process of redistribution of the land plots, and accused the Municipal Council of not respecting "the principles of legality, transparency, and prosecution of the public interest and of good faith by which the public administration should devise its action under the Law of Administrative Procedure law no.14/2011, passed on the 10th of August".

Lastly, because the aim is to bring about a public debate and have it reach the competent institutions in order to resolve this problem, JA!, in the light of paragraph 1 of article 6 of the Law on the Right to Information, asked the President of the Municipal Council for:

1. Information about the status of the alleged subdivision project in the expansion area in Cocomela, including an indication of the number of affected families;
2. Information about the reasons for this redistribution of land into plots of 30/30m, despite the fact that the affected families have been occupying much bigger areas for many years;
3. Information regarding the public consultations that were carried out, the respective meeting minutes, and the reasons behind the loss of land titles of the affected families.

A similar letter, with the same factual report, was sent to the Ombudsman on the same day denouncing this violation of land rights and demanding his intervention.

A few months later, the Ombudsman called for a meeting on June 14th, 2017, where JA!, ANRAN members, representatives of the affected communities, two councillors (urban services and finance) of the Municipal Council, and the Ombudsman himself participated. During this meeting, the legal dispositions and implications of the subdivision and expansion project in Cocomela were discussed. As a result, the Municipal Council of the Village of Namaacha immediately interrupted the process. From October 2017, the farmers started returning to their



plots, which were still delimited with cement marks.

In February 2018, JA! once again visited the site and ANRAN. This time, JA!'s team verified that the cement marks had still not been removed by the Municipal Council and became aware that a meeting between ANRAN, the President of the Municipal Council, and the Urban Services Councillor had taken place. During that meeting, ANRAN had rejected a proposal by the Municipal Council to increase the dimension of the land plots being attributed to the local families to 3600m² (60x60), as it still violated the families' rights over the land and disregarded the dimensions of the original plots.

The interruption of the urban expansion project in Cocomela is a momentary victory, without any accountability measures, and hardly conclusive. The affected population continues to live in uncertainty, as the land at stake has not been officially returned to them by the Municipal Council. The farmers themselves had to remove some of the cement marks that had been placed during the demarcation process. This uncertainty is even further exacerbated given the community's concerns over the corrupt nature of certain members of the Municipal Council, as well as other municipal authorities. We have also heard accusations that both the Urban Services Councillor and the traditional neighbourhood authority in Cocomela have personal interests in this land, which conflict with the interests, traditions and basic needs of the peasant community that legally occupies the region and is entitled to the use and enjoyment of this land.

Since the subdivision of the land that was carried out from 2015 until October of 2017, the affected families (more than 60) were not allowed to cultivate the land on which they had relied for subsistence for many years. At the end of JA!'s visit, some of the farmers voiced a very clear message: what they really wanted was a meeting where both the Chief of the Community and the President of the Municipal Council participated, herein officially returning the land plots to the farmers. This request seemed to us both obvious and fair, and considering that it coincides also with the recommendation issued by the Ombudsman, we can't see any reasons for further delaying this official disclosure.





LIFE STORY - AMÉLIA

Her name is Amélia Carolina Muianga, she is 80* years old and she is native to the city of Matola. When she was young, her father, who was living in the Village of Namaacha, after she underwent a divorce with her husband, invited her to move in with him. Since then, she has never left Namaacha again. During the colonial period she worked for a wealthy family. Here she looked after the farm, the chicken, their eggs, and everything else that was required in the farm, while still cultivating her own field in this land which was so good to sow.

As the time went by, her children grew up far from her. They did not live with her, but settled in Matola instead. Today, they seem to be too preoccupied with their own lives to help or think of their mom who is alone and aging. This is the unfortunate situation of our current unfair and cruel society: the elderly are disdained and rejected by their families. Amélia found herself alone at age 80 in a difficult life which can be traced on every creased wrinkle on her face, every surfaced vein on her hands: a hard life filled with deprivation, suffering, and solitude which is all so common among women farmers in Mozambique!

Looking at this woman, I simply cannot, at this moment, deem her situation as a story of success, unfortunately that is still not the case. It will only be as such once Amélia manages to change and improve her life, to secure money to rent a tractor to plow her 12 hectares of land, harvest enough food from the land to feed herself on a daily basis and sell surplus produce in the local market. This is not a story of success because, as it stands today, Amélia does not have enough to eat, despite having a fertile land to cultivate. And this land is her only richness.

Let us return to the recent past so as to understand how Justiça Ambiental (JA!) got to meet Amélia and became acquainted with her story.

A few years ago, a partner organisation forwarded to JA! a request by a collective of native farmers from the Namaacha village who complained and asked for help as they found themselves

victims to a land grab being undertaken by the Municipal Council of Namaacha. JA! got involved, and after many proceedings, meetings, and complaint letters sent to the Attorney General's office, to the president of the municipal council of Namaacha, to the Ombudsman of Maputo city, we were finally contacted for a meeting in the municipality of Namaacha, with all involved parties, to discuss the issues being raised. This meeting was crucial for the outcome of this case of land grab, not only for the group of affected peasants (about 50) but also for Amélia.

The Ombudsman demanded that the Municipal Council returned the land to its legitimate owners the peasant farmers and stated that they had full rights over this land. At this point in the meeting, an elderly lady in the room stood up, asked the Ombudsman to speak, and then told her story. She was old, alone and the Municipal Council had taken her land away because they thought that she was too old to use it. This woman was Amélia Muianga, and in this same day, the Ombudsman demanded that the Municipal Council returned her land to her within 15 days.

The land was only returned after 60 days, and with a setback: the cement marks that had been placed by the Municipal Council to demarcate the plots still remain in the lands of the 50 peasant families including Amélia's. Until today, the farmers are plowing and sowing on the land that is still demarcated by these cement marks.

Regarding Amélia, quite a few issues remain unresolved. Without money to rent a tractor, which is normally priced at 1.000,00 meticais per hour (approximately 15 USD); with a few houses already erected in her plot and the cement marks placed by the Municipal Council still dividing it; she looks at us asking for help with the eyes of someone who is tired and sad and has only 12 hectares of rich land a land which allows her to hope for a better life free of deprivation.

JA! cannot remain indifferent in the face of such desperate appeal. We cannot promise anything at this point but will support this struggle and try to ensure that this story has a happy ending, and that Amélia gets her land back and finds herself capable of securing at least one meal a day.

We wish that all "peasant Amélias", regardless of their age, spread over the vast country of Mozambique, may one day have the means to survive as a result of their hard work planting and harvesting food from the immensely fertile lands in our country... It is for the realisation of these changes that we should all continue to fight for!

THE FIGHT CONTINUES... FOR A DIGNIFIED LIFE FOR ALL!



FINAL CONSIDERATIONS

This land conflict involving more than 60 families of farmers in the Namaacha Municipality is overgrown with incoherences and misinformation, as it disrespects the local communities' right to information while denying its customary rights over the land. Furthermore, besides all the misinformation, one unquestionable fact persists: this process was not carried in a transparent manner neither did it involve the affected population as prescribed by the law. Lastly, the nature of this process lead us to question the true interests of the municipal authorities as well as the path chosen by the Government towards development.

Unfortunately we can confirm that this questionable behaviour of governmental authorities is a recurring issue in our country. The actions taken about by ANRAN were conducted with a constant appeal and search for dialogue, clarification and justice, while simultaneously presenting the impacts and concerns felt by the Cocomela community resulting from the project of Expansion and Urbanisation launched by the Municipal Council on the land which has been occupied by this community for many years; and invoking the legislation relevant to its defense. Nevertheless, these families had to experience the results of a systematic denial of their rights to land, nourishment, and information.

In a way, we can consider that the halt of this process, achieved by ANRAN and *Justiça Ambiental*, is a valuable success. The families have returned to their plots, removed the cement marks, and are cultivating the land. However, until today, no official document in relation to the return of the land to the peasant families has been issued. This delay in the official hand-over of the original land plots promotes uncertainty and lays a grey cloud over the future of the community.

We hope that this momentary progress is translated into a definitive victory, and that struggles such as this one become the foundation of a growing movement that puts pressure on the politicians and administrative bodies responsible for development not only in Cocomela but also in the whole village of Namaacha and throughout the rest of Mozambique to respect the



law, carry out political processes in a transparent manner and free of conflicts of interest, and share relevant information to allow informed decisions by those inevitably involved in any project being brought to their land.

Today, Linda, who has been cultivating her land in Cocomela since 1992, has 7 children that depend on it for food. Lucia, on the other hand, has lived off the land, where she farms today, since 1995. The development of our country cannot take a course that violates the most basic human, social, economic, and cultural rights of peasant populations who constitute the majority of the Mozambican population.

JA! is still working with ANRAN to ensure the cement marks are adequately removed, and calling for a meeting during which the Municipal authorities officially return the land to the peasant families something that still hasn't happened.

Also worth mentioning, is that ANRAN ran as a candidate to the municipal elections of 2018, to try to have seats in the Municipal Assembly of Namaacha, as a means to raise the voice of their people that are seldom heard. Even without any funding for campaigning, ANRAN managed to get approximately 3000 votes.

All the documents that were referred to in this text can be found in the archives of *Justiça Ambiental*.



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