

LXXVIII DAY OF THE 'HIDDEN DEBTS' SCANDAL TRIAL

“Public Prosecution does not know that plots of land, according to the Land Law, cannot be seized,” questions Abdul Gani

- During the presentation of the allegations in defence of the defendant Gregório Leão (former General Director of SISE), lawyer Abdul Gani said that the request for civil compensation requested by the Public Prosecution Service from the 19 defendants is out of date, as the same should have been made up to five (5) days after the indictment.



Abdul Gani, lawyer for Gregory Leão

// We became aware of the civil claim on the first day of the trial. So, doesn't the prosecution know that the civil claim has to be filed at the indictment time? We only became aware of it on 23 August. This request is out of date. Even so, His Honour the Judge sent us a notification, and we lodged an appeal and contested it. This request for civil compensation burned down the tent, is out of time. What's more, if the Prosecution knew the new 2019 Code they would have used the prerogative that provides for filing the claim up to five (5) days after indictment. She did not file, in this trial, we did not take cognizance, and now she wants to seek civil indemnity," the lawyer explained.

Abdul Gani further questioned how the Public Prosecutor's Office seizes land in a State where land cannot be sold, according to the Constitution of the Republic and separate legislation. "In the context of the civil indemnity claim, it put in an attachment. And now, another criticism,

an absolutely incredible thing, was to ask for lots of land to be seized. So, doesn't the Public Prosecutor Office know that, according to the Land Law, plots of land cannot be seized?

Also speaking in defence of the former General Director of SISE, Gani said that the Public Prosecutor's Office is confusing the crime of association to commit offences with co-participation. This is because, in their opinion, the fact that Gregório Leão authorised the visits to Privinvest's shipyards in Abu Dhabi and Germany does not incriminate him.

"The Public Prosecutor's Office should have sought to hear Privinvest to explain why it transferred the money to the people on trial. The companies that incurred the debts, in this case ProIndicus, EMATUM and MAM, have not been charged. If we sum up the amount that all the defendants received, it is equal to 70 million dollars. The three companies contracted debts with the backing of the State and it is these people sitting who are going to pay the

debt? Where is the equipment and what is its condition?", questioned Gani, annoyed with the prosecutor.

Using a Supreme Court ruling, the experienced lawyer also argued that there was no evidence that Gregório Leão committed the crime of embezzlement, as referred to by the prosecutor. This is because Gregório Leão and António Carlos de Rosário were dismissed from these charges in a related case where three other senior managers of Credit Suisse (the "hidden debts" creditor bank) were being prosecuted by the Prosecutor's Office and it was sought that they be extradited to Mozambique. The Supreme Court said there was no crime of embezzlement and the defence is using this argument to also bring down the crime of money laundering and thereby exonerate their constituents.

In conclusion, Gani called on Judge Efigénio Baptista to check whether evidence was produced against Gregório Leão so that his sentence is fair. "Justice is only done by applying the law."

Alice Mabota asked for Khessaujee Pulchand's acquittal because the crimes were committed by Africâmbios

Khessaujee Pulchand, at the time of the facts an employee of the Africâmbios exchange house, answers for the crimes of association to commit crimes and money laundering, for allegedly having helped launder about nine (9) million dollars transferred by Privinvest to M Moçambique Construções (defendant Fabião Mabunda's company), in the interest of the couple Gregório and Ângela Leão. In presenting the allegations, the lawyer Alice Mabota argued that the case was badly conducted and that the presence of the defendant Khessaujee Pulchand in Court is an error of instruction that protects the real prevaricator, Africâmbios.

"It has not been proven that any money went into Khessaujee Pulchand's pocket and he was not even responsible for contracting the debts, so he should not be held responsible. The manager was not called to come and explain whether he managed the defendant's accounts or not. And we have not heard any defendant stating that he handed the money to Khessaujee. Let Africâmbios be called!"

And the most strange thing, according to Alice Mabota, is the fact that the Public Prosecutor's Office has promoted the acquittal of Simione Mahumane, also an employee of Africâmbios, who presented the same arguments as Khessaujee Pulchand, while for the latter, Ana Sheila Marrengula is asking for a penalty close to the maximum.

For Alice Mabota, the request for compensation of USD 2.8 billion makes no sense, insofar



Alice Mabota, lawyer for Khessaujee Pulchand

as the amount of goods that were acquired by the companies that contracted the "hidden debts" was not subtracted. During his hearing, Khessaujee Pulchand said he had been directed by Africâmbios management to open an account. Thinking it was for salary, he complied with the invitation. He later realised that the account was for other purposes, yet he was put

at ease supposedly because he was told that it was normal at that exchange house for staff to receive money into personal accounts managed by the company.

Alice Mabota concluded her closing arguments by reiterating that there is no doubt that her constituent Khessaujee Pulchand is innocent and should therefore be acquitted.

Rocha says Cipriano Mutota could not influence anything for ProIndicus project to be approved

Lawyer Rodrigo Rocha said his constituent, Cipriano Mutota (at the time of the facts Director of Project Studies at SISE), cannot be put on the same level as other defendants who had a leading role in the contracting of the “hidden debts”.

He requested that Cipriano Mutota should be acquitted, but if convicted that the Court should take into account the mitigating aspects because his actions are not blameworthy on the level of the other defendants.

The lawyer added that his constituent acquired trucks in England and registered them in his name in Mozambique as a way of proving that the defendant Cipriano Mutota had no intention of laundering capital and even of hiding this operation.

In the same vein, he said Mutota received the amount of about USD 600,000 in his personal account domiciled in Mozambique and he will have been the one to declare to the Public Prosecution what was the exact amount he moved. “If he had the intention of hiding something, he would not have proceeded in this way,” he said.

Rodrigo Rocha also said that his constituent only dealt with the process of creating the Integrated System for Monitoring and Protection of the Exclusive Economic Zone of Mozambique when it was in the study phase and was removed shortly after. “Having knowledge that there was a bonus to those who participated in the conception of this project, he sought to know



Rodrigo Rocha, lawyer for Cipriano Mutota

about his friend, Teofilo Nhangumele, since he, Mutota, had participated in the studies,” he inquired.

He made it clear that Mutota made inquiries to know about such payments and, after speaking with Nhangumele, he contacted Jean Boustani

(Prinvest manager responsible for the payment of bribes), and received an amount from him that he had no way of considering was a bribe because a lot of time had passed and the defendant had no way of influencing any stage for the approval of the project.

Hélder Matlhaba “disappointed, concerned and shocked” with the allegations of the Public Prosecutor

For lawyer Hélder Matlhaba, the Public Prosecutor’s Office misread a procedural document in which the defendant Cremildo Manjate wrote, informing that his bank account “was practically inactive”. But the prosecutor’s understanding was that the account “was inactive”.

Matlhaba says it was based on this misperception that his constituent was arrested and released about a year later.

He further stated that Cremildo Manjate only sold an unfinished dependency to defendant Angela Leão, located in Jonasse, in the Matola-Rio area of Boane District, which previously belonged to a citizen identified by Nuno Lala. He added that the defendant’s defence joined to the case several documents proving the legality of the business, but all of them were ignored by the prosecutor.

Following his final arguments, the lawyer



Hélder Matlhaba, lawyer for Cremildo Manjate

Helder Matlhaba questions whether Angela Leao moved several million meticaís, because it is understood that she laundered money through the account of Crimildo Manjate, which only received 3.7 million meticaís. The lawyer also questions the motivation of the defendant Crimildo Manjate to use his

own brother as a shield to receive money with all the risks that could arise for him.

“The facts are crystal clear. He has not committed any crime that falls under money laundering. I am not only worried and disappointed by the allegations of the Public Prosecutor. I am scared because any one of

us in similar circumstances could fall into a situation like this and be sentenced to the maximum penalty,” said Matlhaba, adding that all the evidence of the use of these amounts were attached to the case and finally asked the Court to acquit the defendant Cremildo Manjate.

Damião Cumbane says Public Prosecutor’s claim for compensation makes no sense

In his submissions, lawyer Damião Cumbana said it makes no sense for the Public Prosecutor’s Office to charge the defendants the full amount of the few more than two (2) billion dollars when the assets that were acquired with this amount are being used by the State, with particular emphasis on the Ministry of National Defence.

According to the lawyer for the defendant, Angela Leão, the Public Prosecutor’s Office should subtract the amount corresponding to the assets that were acquired from Privinvest, and then discuss the remainder. He also argued that his constituent, Ângela Leão, cannot be convicted of the crime of embezzlement, since she is not and never has been a public official, an essential condition for a person to be held responsible for that crime.

Damião Cumbana said that the Public Prosecutor’s Office made a huge effort to try and prove that the amount of compensation - which coincides with the total amount of the “hidden debts” - was, in its entirety, appropriated by the defendants. “The prosecutor’s office tended to be aggressive in trying to prove that fact, even when throughout the hearings it was proving otherwise,” he said.

For the lawyer, this was a possible trial and, regardless of the sentence, it will always re-



Damião Cumbana, lawyer for Angela Leão

main in the memory of Mozambicans the idea that there were many people who were not in Court to answer. He added that some of the luckier people went to testify as declarants, when they should have been as defendants.

He also added that the case was born conditioned because when it came to light the defendants were condemned in advance by public opinion. “The question that arises is whether we can count on a balanced and fair decision?”

Lourenço Malia reiterates that Teófilo Nhangumele and Bruno Langa received money as consultants

Once again, the thesis presented by lawyer Lourenço Malia pointed out that his constituents received USD 8.5 million each in fulfilment of a consultancy contract they initialled with Privinvest and not with the



Lourenço Malia, lawyer for Bruno Langa and Teófilo Nhangumele

Mozambican State.

Malia denied that Teófilo Nhangumele made additions to the amount in the supply contract, as these were made after the defendant was expressly discharged from the process.

“The money received by these came out

of Privinvest - which is a commercial company - by way of a bilateral contractual obligatory contractor and supply contract between ProIndicus and Privinvest,” he advanced.

The defendants’ lawyer, Teófilo Nhangumele and Bruno Langa, concluded his fi-

nal arguments asking the judge to make the necessary decisions, bearing in mind that his constituents accept that justice be done, but not any justice. He added that if this is done, it will be possible to allow that the work of all the intervening parties over the last months has not been in vain.



EDITORIAL INFORMATION

<p>Property: CDD – Centro para Democracia e Desenvolvimento Director: Prof. Adriano Nuvunga Editor: Emídio Beula Author: Emídio Beula Team: Emídio Beula, sDimas Sinoa, Américo Maluana Layout: CDD</p>
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<p>Address: Rua de Dar-Es-Salaam Nº 279, Bairro da Sommerschild, Cidade de Maputo. Telefone: +258 21 085 797</p>	<p> CDD_moz E-mail: info@cddmoz.org Website: http://www.cddmoz.org</p>
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