



In The Name Of The People: A Lesson in Expropriation

Early March brought the verdict in the Talal Abu Ghazaleh Group International (TAGI) vs. the Greater Amman Municipality (GAM) case. The Supreme Court revoked TAGI's appeal of the Council of Ministers' expropriation decision for the property. Where do we go from here? **By Abdul-Wahab Kayyali**

IT IS RARE THAT AN INDIVIDUAL OR A PRIVATE enterprise wages a legal battle with the public authorities in our country. That is why the drawn out battle between Talal Abu Ghazaleh International (TAGI) and the Greater Amman Municipality attracted attention from citizens, human rights groups, and investors. In this day and age, where the government is theoretically pushing for increased public participation in decision making via institutions such as the Ministry of Political Development, the public was bound to be drawn to a contest that was seen as yet another defining chapter of state/society interaction.

The legal battle is over now, and the court has ruled that the expropriation decision taken by the Council of Ministers on TAGI's property was legally sound. TAGI is now required to evacuate its premises by May 9th.

"The court issued its decision, and we respect that decision," said Omar Al-Atout, TAGI's attorney. "Despite our convictions, the court's ruling is the 'title of the truth.' We

cannot – and will not – dispute it," he added.

In the public domain throughout its duration, the dispute encompassed most of 2007 and early 2008. And rumors were flying. Some surrounded the intention behind TAGI's fight, others focused on the proposed usage of the expropriated property. Conspiracy theories became commonplace in the narrative. Amidst an unclear series of events, *Venture* sought out a number of players in the case to bring some perspective to the decision. While the outcome will always allow for different interpretations, what is known is that — in its immediate wake — all parties have suffered.

TAGI VS. GAM: A RUNDOWN

Executives of Al-Adbali Development Corporation approached residents and business owners of the area with the intent of purchasing their property. In that regard, Amman HE Mayor Omar Ma'ani sought to play the role of the mediator to help the parties agree to a favorable outcome. "After negotiations failed, talk of expropriation

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was raised – that perhaps we would be better off if we sold, because GAM was going to expropriate our property if we didn't," said Al-Atout.

Then, after negotiations failed, plans for a street bypass and public gardens over the property were put forward by GAM. On May 22, 2007, the Council of Ministers took the decision to expropriate the property for GAM. Controversy reached its pinnacle on July 3rd of that year, a large chunk of the expropriated property was sold to Abdali Development Corporation. This was done with

the consent of GAM, and is evident in the registration documentation at the Department of Land and Survey.

TAGI filed its appeal on August 13, 2007 for numerous reasons that Talal Abu Ghazaleh himself outlined in a public symposium in February of 2008. The court reached its decision on March 6, 2008. “Now that the court has taken its decision – it’s over. TAGI will evacuate its premises, and will not put up any additional resistance,” said Al-Atout.

Going forward, TAGI has filed a criminal case against the Mayor of Amman for submitting an alleged “false memo” in which he stated that GAM did not authorize the sale of land to Abdali. It will also file a civil suit against GAM in the near future for reparations and compensation in the tens of millions of JDs as a result of the expropriation. “[Talal Abu Ghazaleh] will not keep up his resistance. But he will always keep an eye out for what transpires,” remarked Al-Atout.

However, Al-Atout explained that TAGI is not after Mayor Ma’ani personally. “People think that Omar Ma’ani is an enemy of TAGI. He isn’t,” said Al-Atout. “He really tried to approach this whole episode in a kind-mannered way... We had many amiable meetings with him. When we say we are taking the mayor to court – it’s in his formal capacity as the representative of GAM, not his personal one,” he added.

Also, TAGI said the firm won’t pursue any international avenues. “TAGI will not pursue any non-Jordanian avenues. [Abu Ghazaleh’s] battle was in Jordan – and the Jordanian legal system was always considered to be paramount,” said Al-Atout. “Even the media campaign that was waged was restricted to local media outlets. It was never the intent to raise international awareness,” he added.

EXPROPRIATION 101

One of the unintentional consequences of the case was to shed light on Jordan’s expropriation law. “The Jordanian constitution provides that ‘no property of any person may be expropriated except for purposes of public utility and in consideration of a just compensation, as may be prescribed by law,’” said Dr. Mohamad Hammouri, former Minister of Jus-

tice and former Dean of the University of Jordan’s law school.

“Though the executive branch has discretion in expropriating the property, the considerations and the motives behind its decision must be the public benefit and nothing else,” added Hammouri.

GAM has maintained that its actions—and future discretion with the property—remain within legal confines. When asked about the coming land use, Ahmad Armouty, head of the expropriation division at GAM, was indignant. “We will do whatever we please with the expropriated land. What’s it to you?” he exclaimed. “I don’t know what exactly we will do ... We might [sell it]. The law certainly gives us the right to.”

The dispute could be used as a warning sign for investors who may not have the government on their side.

GAM later told *Venture* that it seeks to build roads and public gardens in the expropriated property. It has expropriated 66 dunums in total, 28 for public gardens and 38 for roads. It stated that 47 dunums, almost 70 percent of the total expropriated property, was expropriated from Abdali Development Company. GAM also referenced article 6A of Expropriation Law Number 12 of 1987, which stated that the law allows for the sale of expropriated land to private entities with the consent of the expropriating party.

“Legally, after the property becomes property of GAM, they are entitled to use it at their disposal – even sell it,” said Hammouri. “However, if there was an indication that this is not for public benefit, the judiciary has the right to revoke the expropriation and there have been legal precedents for this.”

GAM chose not to comment on why it approved the sale of the expropriated land to Abdali.

THE INFERENCES

Though most parties involved did not want to discuss the implications of the case, it certainly has implications for investment and business in the country.

Al-Armouty considered bringing up the TAGI issue a “provocation.” Yet it can only be expected that an expropriation of land in the public interest should elicit questions from that very same public about it’s use.

Al-Atout, for his part, thinks the expropriation decision has repercussions on investors’ perceptions in Jordan. “Regarding the expropriation decision – not the court’s decision – what I am afraid of is that this property which the GAM is expropriating now, will later be sold to the Abdali Company,” he said. “We are just afraid that the ‘Jordan Gate’ scenario will be repeated. In the end, we are concerned for the country’s benefit – not [just ours].”

The ‘Jordan Gate’ scenario he referenced was the sale of a public garden owned by GAM to Bayan Holdings to build the Jordan Gate towers on the Sixth Circle.

“The ease with which the executive branch is taking expropriation decisions is alarming. It hurts the confidence that investors have in the security of their investments,” said Al-Atout. “Expropriation’s legal definition is stripping away of property for necessary projects that have no alternative. It is not enough to say that this is for public benefit,” he added.

The legacy of the dispute between TAGI and GAM is bound to linger for the time being. At a time when Jordan is desperately trying to attract investments, the dispute could be used as a warning sign—or a benchmark—for investors who may not have the government on their side.

TAGI says that despite losing the case, the company isn’t going anywhere. “It has never been TAGI’s intent to relocate from the country. [The company] will move headquarters but remain in Amman in its full capacity,” said Atout. “There are close to 1,000 employees under the TAGI umbrella [in Jordan]. They’re not going anywhere.”