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KYRGYZSTAN: 14 year church ownership annulled

By Mushfig Bayram, Forum 18

More than 14 years after the Church of Jesus Christ in Kyrgyzstan's capital Bishkek bought a Culture House to use as its worship building, a court has annulled the sales contract. The Church's appeal is due on 18 April. "We are not against the Church or its activity but the contract was null and void from the beginning and must be annulled," Aysulu Orozbekova, who represented the State Property Fund in its suit to court, claimed to Forum 18 News Service. She refused to say why the Fund opened the issue 14 years after the contract was signed or if it is linked to a construction company's interest in the property. Asked if, as she insists the contract was illegal, any state officials had been punished, Orozbekova said this was not the Fund's responsibility. "It is not just the Church of Jesus Christ's property under investigation at the moment. Other religious and non-religious buildings are also under question." She refused to identify the other religious communities whose property may now be threatened.

Authorities in Kyrgyzstan's capital Bishkek are seeking to confiscate the building of a Protestant Church, the Church of Jesus Christ, Forum 18 News Service has learned. In January a court annulled the sales contract signed more than 14 years ago, claiming it was in violation of the law. The Church's appeal against the decision – and its separate appeal to have the whole case thrown out - are due to be heard in Bishkek City Court on 18 April.

Some Church members, and members of other Protestant churches in Bishkek, told Forum 18 that the authorities' legal moves to seize the building may be motivated by their dislike of the Church's activity and its members spreading their faith across Kyrgyzstan.

However, other Church members speculate that a major incentive might be financial. "The authorities just want to take advantage of us," they complained to Forum 18 on 3 April. They point out that the building is in a "prestigious district" of Bishkek with a market price of "about one million US dollars". The authorities "just want to take it away from us because, we think, they have potential buyers".

Insecure property ownership

Religious communities can face insecurity over property ownership. The State Property Fund official who represented it in court in the Church of Jesus Christ case told Forum 18 that it is also looking at property ownership affecting other religious communities, but refused to identify them.

Religious communities also face inspections by a range of state agencies, as has happened to mosques and churches in Bishkek since early 2014.

Among those visited several times was Bishkek's Hope Baptist Church, most recently on 7 April. Officials inspected the documents of its building. The Church's Pastor Eduard Pak told Forum 18 on 7 April that the Mayor's Office has already "ordered us to vacate the land since we are only renting it" (see F18News 17 April 2014 http://www.forum18.org/archive.php?article_id=1949).

Contract annulled

On 24 January, in the absence of Church representatives, Judge Zhyrgalbek Nurunbetov of Bishkek's Inter-District Economic Court annulled the 1999 sales contract between the Church of Jesus Christ and the State Property Fund. Judge Nurunbetov claims in the decision, seen by Forum 18, that the contract was signed in violation of the Law and that the Church did not fulfil its contractual obligations.

Church members, who wished to remain unnamed for fear of state reprisals, adamantly deny this.

The suit, the decision notes, was brought by the State Property Fund, which was represented in court by Aysulu Orozbekova. Also the State Commission for Religious Affairs (SCRA) was invited as an interested party and represented in court by its lawyer Kanybek Mamataliyev.

Hearings began in the Economic Court in November 2013, with two other hearings in December 2013, where Church

representatives and interested third parties to whom it rents rooms in the building participated. The Church boycotted the fourth and final hearing, held on 24 January 2014. "We and the third parties gave all the evidence for the defence but the Court ignored it totally," church members complained. "Then in our absence the Judge made the decision."

Church members learned of the final 24 January hearing only two days earlier, when the Economic Court rejected their separate motion to have the whole case thrown out. Church members told Forum 18 they did not wish to be seen to endorse the case by attending the final hearing.

The 1999 contract

The Church of Jesus Christ was registered in 1991. It bought the Culture House of the old Bishkek Machine-Building Plant from the State Property Fund under a 1 September 1999 contract signed by Tursun Turdumambetov, then Deputy Chair of the State Fund, and Vasily Kuzin, the Church's Senior Pastor. The contract was registered on 26 October 1999 in the State Inventory and Appraisal of Property Department. According to the contract, the building occupies 3,200 square metres (10,500 square feet), with an additional 3,000 square metres of adjacent park.

The contract – seen by Forum 18 - states that the building was sold to the Church for 1,946,218 Soms (then 354,000 Norwegian Kroner, 43,000 Euros or 46,000 US Dollars) for it to use and manage the building with the condition that it remain under the control of the State Property Fund. The contract allows the Fund to terminate it unilaterally if the Church fails to fulfil its contractual obligations, that is if it does not maintain social activity, such as courses for young people, as its main profile.

Church members told Forum 18 that they have arranged courses for young people, including dancing and singing classes, and classes for children preparing to go to school. A children's charity helping poor families and a newspaper's editorial office are among other users of the building, they said. This is also seen in the Court decision, as it summoned to the hearings as interested parties representatives of 15 organisations which rent rooms in the building.

"Violation of norms"?

Judge Nurunbetov claims in the decision that the State Property Fund sold the building to the Church not on a tender but directly with violation of the norms of direct sales of state property. According to Provision 70 of the 1995 Law on Privatisation and Denationalisation of State Property, state property can be sold only on the initiative of the Government, Ministries, State Committees, State Administrations, State Committee on management of State Property, or local Administrations.

Judge Nurunbetov argued that the initiator in this case was the Church itself by writing a request to purchase the building, which was endorsed by Boris Silayev, then Deputy Prime Minister, in a separate letter with a seal and his signature on it. This, according to Judge Nurunbetov, is a violation, since the initiative did "not come directly" from the Government but the Church.

Judge Nurunbetov also claims that the Church did not observe the social profile of the building, and has not paid tax on the additional plot of land which came with the building.

Church members reject the first two claims. "That they requested the Government does not mean that they initiated the sale, since the initiative came from the then Deputy Prime Minister." They also insist they kept the social profile of the building by renting out space to organisations supporting young people.

Church members told Forum 18 that it had not paid tax on the additional land. They pointed to the contract, which says "nothing on how we are supposed to use it or whether we should pay tax on it. However, we have taken care of the park all these years."

"We invested thousands of dollars in repairing the building, improving the area around the building, taking care of the park, and thus have fulfilled our obligations on the contract," church members insisted. "It is not just that the State Fund brought a suit in the court more than 14 years after it sold the building to the Church."

Why did authorities bring suit after 14 years?

Asked by Forum 18 on 3 April why the court accepted the suit brought by the authorities more than 14 years after the Church and State Property Fund signed the sales contract, Judge Nurunbetov refused to say. "I have my decision, and let them bring an appeal. I will not comment over the phone."

Orozbekova of the State Property Fund vehemently defended the suit to Forum 18 on 4 April. Told that it was the Fund which sold the property to the Church, endorsed by the Government, and asked what had changed after 14 years that the authorities seek to confiscate it now, she responded: "The General Prosecutor's Office raised the case in 2009 but it did not reach the Court at that time because soon after there was regime change in Kyrgyzstan."

Told that in 2009 the Church had already maintained the building for ten years and observed its contractual obligations by renting

out space for social projects, and asked why the Fund still wants to take it away from the Church, Orozbekova insisted: "It is not just the Church of Jesus Christ's property under investigation at the moment. Other religious and non-religious buildings are also under question."

Orozbekova refused to give any details to Forum 18 of which other religious communities' property is being investigated. "There are so many cases, I cannot remember all the details," she retorted.

General Prosecutor's Office opened investigation in 2009

Church members told Forum 18 that on 12 May 2009, during the rule of then President Kurmanbek Bakiev, the General Prosecutor's Office sent a proposal to the Government's State Property Ministry to "remedy the breaches of the Law in the contract", but that no suit was brought to court.

"Now no suits can be brought in court based on the Law because the three years' limitation period for bringing a suit after an alleged violation expired in May 2012." Church members pointed out that more than four years had passed between the General Prosecutor's proposal on the alleged violations and November 2013, when the Court accepted the suit.

Lyudmila Usmanova, Deputy General Prosecutor, said she was unable to comment. "First of all I cannot comment on why the General Prosecutor's Office raised this issue in 2009, especially if we take into account that there was a fire in our building in 2010, and many documents were burnt," she told Forum 18 on 4 April. "I also cannot say why the Court made such a decision at the moment."

Will any officials be punished for "illegal contract"?

Orozbekova also evaded Forum 18's question whether any officials who signed and endorsed the contract will be held responsible and punished. "It is not our responsibility - it is the duty of the law-enforcement agencies."

Deputy General Prosecutor Usmanova also declined to answer the question, asking Forum 18 to send its questions in writing. Forum 18 sent its questions in writing on 4 April, but received no response by the end of the working day in Bishkek on 8 April.

Will Church be properly compensated?

Church members told Forum 18 that approximately one thousand people attend Church services in their building every week. "We cannot afford to lose the place, particularly in view of its central location. It would be hard for us to buy a new place, especially given market prices."

Asked whether the Church would accept any compensation from the State, they said that they do "not want to lose the place but in the worst case they will accept compensation based on the property's market value." They pointed to Article 184, Point 4 of the Civil Code, which states: "When a transaction – as a result of which a property was bought by a person, who is a conscientious buyer – is not valid, the value of the property at the point of time when the Court makes a decision will be exacted from the guilty persons for benefit of the owner of the property."

Told that the Church will have trouble to find a place and funds to buy such a building for worship, especially given rising prices, and asked why should it suffer the consequences of the authorities' decisions, Orozbekova responded: "Many illegal contracts were made and buildings sold in earlier years. Staff of the State Property Fund have now changed and we are investigating many property deals. We are not against the Church or its activity but the contract was null and void from the beginning and must be annulled."

Asked whether the authorities will properly compensate the Church, Orozbekova responded that the Fund intends to return to the Church "just what it paid 14 years ago". Asked why the Fund should not pay the Church the market price of the property according to Civil Code Article 184, Point 4, if it deems that the only solution is the return of the property, Orozbekova laughed. "The Church paid such a ridiculously small amount for it, why should we now pay them such a large sum?"

Why is SCRA party to case?

Tabyldy Orozaliyev, Deputy Head of the SCRA, claimed to Forum 18 on 4 April that the SCRA is not a party in the case, and that the only reason their lawyer Mamataliyev participated in the hearings was because the Court "summoned him as a witness to ask questions on the legal status of the organisation".

Told that the Court decision indicates that the State Commission is an interested party, he denied it. "It is a civil case, and we were represented there neither to speak against or defend the Church, but to answer whether or not the Church is registered at the indicated address."

However, Church members objected. "Mamataliyev came to all the hearings we participated in. He falsely accused us of not keeping

the building's social profile," they told Forum 18. "At our insistence the Court invited our sub-tenants, who testified to the Court about their social activities and that they are using our building for this purpose."

Told about this and that one of the tasks of the SCRA is building bridges between the authorities and religious communities, and asked why their lawyer said nothing in defence of the community, Orozaliyev sounded agitated. "Do not ask improper questions, do not teach me what we should or shouldn't do."

Asked by Forum 18 whether he or the SCRA is not concerned that the Church might lose its building, he responded angrily: "You get lost." He then put the phone down.

Construction company interested in buying site

A commercial company EVOS constructed a high-rise building next to the park by the Church. One employee of the company, who did not give his name, told Forum 18 on 4 April that the park "is our property, and soon we are going to put up a fence around it and make it into a park for recreation of our tenants". He added that the company intends to buy up the land around the building, which he called a Culture House.

When Forum 18 noted that the building is a Church building, the employee objected saying that it is a "Culture house," and that "not a Church but a sect occupies only part of the building." Asked what will happen to the building, he told Forum 18: "It will be decided in future, but we are waiting for more investment in our project to build more high-rises in the area."

Told by Forum 18 that construction company EVOS hopes to buy new plots of land around the Church building, and asked whether this is why the suit is being brought now, Orozbekova of the State Property Fund refused to answer. "Look, I have no time to discuss with you all of these questions you have," she said, and declined to talk further. (END)

For background information see Forum 18's Kyrgyzstan religious freedom surveys at <http://www.forum18.org/Analyses.php?region=30>.

More reports on freedom of thought, conscience and belief in Kyrgyzstan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=30>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Kyrgyzstan is available at <http://education.nationalgeographic.com/mapping/outline-map/?map=Kyrgyzstan>.

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