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Majoro lied: Frazer Solar

Pascalinah Kabi

AFRERMAN company, embroiled in bitter legal battle with the government over a botched 2018 M1,7 billion solar energy deal, has accused Prime Minister Moeketsi Majoro of lying about the issue.

The company, Frazer Solar, alleges that, among other things, Dr Majoro lied when he said he only learnt about the company's decision to take the government to court over the issue in the South African media last month.

In April this year, Frazer Solar petitioned the Gauteng High Court to seize Lesotho's assets including water royalties due to Lesotho in terms of the LHWP agreement for the transfer of water to South Africa.

Gauteng Deputy Sheriff Khensani Ngobeni moved to garnish the royalties late last month after the Gauteng High Court on 29 April 2021 granted Frazer Solar's application to be compensated from the water royalties.

The solar company had argued that the Lesotho government had repeatedly failed to honour a January 2020 default judgement by a South African arbitrator to pay damages for the alleged breach of the 2018 deal.

The damages were awarded by a South African arbitrator in January 2020. The arbitrator, South African lawyer Vincent Maleka, was appointed by the Johannesburg Bar Council at the request of Frazer Solar who argued that the terms of its agreement with the Lesotho government provided for the appointment of an arbitrator in the event of either party breaching the contract.

The main supply agreement was allegedly signed by Temeki Tšolo, who was Minister in the Prime Minister's Office in the previous Thomas Thabane administration. Dr Majoro was finance minister at the time of the deal. He had refused to sign the financing agreement for the project aimed at providing Lesotho with 40 000 solar water heating systems, 20 megawatts of solar power capacity, 1 million LED lights and 350 000 solar lanterns over four years.

On 19 May 2021, Dr Majoro told journalists in Maseru that Frazer Solar had not contacted them and they only read about plans to seize the government's assets in the South African media.

"We learnt of an award to a company called Frazer Solar in the South African media and international newspapers yesterday," Dr Majoro said.

"We were taken aback by this but we are studying this arbitral award and we will respond appropriately in due course. We are surprised because this was awarded in South Africa when we have courts in Lesotho but we are trying to understand why this happened.

"The company indicated that it was lobbying institutions around the world to help attach Lesotho's properties to pay off the damages claim. If we really owed them money, the first thing would have been for them to come to Lesotho and get us to pay them. But Lesotho's properties here and overseas are protected and we don't think the action that

they are proposing will succeed. But in the next few weeks, we will understand what is going on," Dr Majoro added.

However, Frazer Solar has accused Dr Majoro of lying about the issue.

In a statement this week, Frazer Solar said it had notified the premier of the Gauteng court case in an email on 19 April 2021. The company said it had then received a notification that Dr Majoro had received and read the email.

Frazer Solar further claims that Dr Majoro was personally involved in the botched solar deal. It claims the premier met with Frazer Solar representatives and corresponded with them on several occasions.

"It is not credible for Mr Majoro to claim surprise or lack of knowledge regarding this legal action," Frazer Solar said in its 22 June 2021 statement.

"As finance minister, Mr Majoro was personally involved in Frazer Solar's engagement with the government of Lesotho and meeting with and corresponding with company representatives on multiple occasions over the course of more than a year.

"Mr Majoro's knowledge of the legal action is evidenced in the table below, which presents 25 instances since 2019 in which Mr Majoro and his office were informed in person, by email, or by fax of the existence of the dispute, the arbitration proceedings, the arbitration award, and the pending enforcement action".

Frazer Solar claims that its letter of demand was emailed to the Lesotho government on 15 March 2019 and it was received by one P. Lebusa, a senior private secretary in the office of the prime minister. It further alleges that the same Mr Lebusa was personally served with a Letter of Termination of the Supply Agreement on 29 July 2019 and a Notice of Arbitration on 30 July 2019.

It further claims that an Arbitrator Appointment Request was hand delivered to Mr Lebusa on 7 August 2019; a Confirmation of Appointment

ment of Arbitrator letter was hand delivered to Mr Lebusa on 14 August 2019; a Notice of Preliminary Meeting and the Preliminary Meeting Agenda was emailed and hand delivered to Mr Lebusa on 22 August 2019.

Further letters and emails were sent to Mr Lebusa on 25 November 2019. These included an email from the arbitrator, Advocate Maleka, confirming that arbitration proceedings would commence, the company alleges.

Frazer Solar alleges that the email confirming the arbitration award against the government was sent to Mr Lebusa on 28 January 2020 and a letter also hand delivered to the prime minister's office on 31 January 2020.

The company also alleges that it had on 19 April 2021 notified Dr Majoro of the hearing in the Gauteng High Court in an email and it had received confirmation that the email had been read.

Dr Majoro's press attaché, Buta Moseme, directed all questions to the Attorney General, Advocate Rapelang Motsieloa.

"Firstly, can you share with me the media statement. Secondly, I am told that now that the matter is before the Johannesburg High Court, any communication on this matter should be done with the Attorney General," Mr Moseme said when contacted for a response.

Adv Motsieloa had not honoured his promise to respond to questions at the time of going to print.



MOEKETSI Majoro.



TLALI Kamoli.

Soldiers demand M32 million from army

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waited patiently for the government intervention as promised but to no avail. Despite demand, the defendants fail, refuse and or ignore to pay plaintiffs," the plaintiffs state.

In addition to the unprecedented lawsuit, the *Lesotho Times* has learnt of a meeting of one of the plaintiffs, Private Maja, with former Law and Justice Minister, Ngosa Mahao, and families of other victims of the human rights abuses.

The closed meeting was held at the Transformation Resource Centre (TRC) offices in Maseru on 21 April 2021.

The aim of the meeting was to "get the victims' opinions on steps that the state must take to redress the past violations".

It was also aimed at "gathering their opinions on the proposed transitional justice bill and to gather their inputs to be incorporated into the law".

According to the minutes of that meeting, Private Maja was abducted and subjected to torture, cruel and degrading treatment on 3 September 2014.

He claimed that he was the first soldier to go into exile in 2014. He was exiled for three years in South Africa. His salary was stopped and "life became quite hard for him and his family back home suffered".

He said when he eventually returned to Lesotho in 2017 dur-

ing the second Thabane administration, he found his juniors promoted to higher ranks and "this created problems" within the army.

He said he and other formerly exiled soldiers subsequently met government representatives on 4 September 2017 to discuss their compensation and redeployment to the army.

These representatives included Dr Majoro who was then finance minister, then Foreign Affairs and International Relations Minister Lesego Makgothi, then Defence and National Security Minister Sentje Lebona, then Water Affairs Minister Samonyane Ntsekele, then defence principal secretary, Tanki Mothae, and then Deputy Foreign Affairs and International Relations

Minister, Halebonoe Setšabi.

"Through these representatives, the government undertook and committed to ensure that the victims are compensated but that has never materialised," the minutes of the meeting state.

"Private Maja said he expects the prosecution of those who tortured him and reparations.

"There was consensus between those who endured torture, cruel, inhumane and degrading treatment that they expect the perpetrators to be suspended, indicted and to get reparations for the damages and harm they have suffered (this never happened)," the minutes further state.

(See stories on pages 4 and 8).